



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

PPR/P/1/2016-DD/1/INF/2016/BOD/551/2020

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. Paresh Chimanlal Budhdev (M.No.046268), Mumbai in Re:**  
**[PPR/P/1/2016-DD/1/INF/2016/BOD/551/2020]**

**MEMBERS PRESENT:**

<b>CA. Prasanna Kumar D., Presiding Officer</b>	<b>(In person)</b>
<b>Mrs. Rani Nair, (IRS, Retd.), Government Nominee</b>	<b>(Through video conferencing)</b>
<b>CA. Satish Kumar Gupta, Member</b>	<b>(Through video conferencing)</b>

**Date of Final Hearing: 11<sup>th</sup> February, 2022**

1. The Board of Discipline vide Report dated 8<sup>th</sup> February, 2022 held that **CA. Paresh Chimanlal Budhdev (M.No.046268)** 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.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Paresh Chimanlal Budhdev** and communication dated 8<sup>th</sup> 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 11<sup>th</sup> February, 2022. **CA. Paresh Chimanlal Budhdev** made his written representation vide email dated 9<sup>th</sup> February, 2022 on the Findings of the Board.
3. **CA. Paresh Chimanlal Budhdev** appeared before the Board on 11<sup>th</sup> February, 2022 through video conferencing and made his oral representation thereat.
4. **CA. Paresh Chimanlal Budhdev** vide email dated 9<sup>th</sup> February, 2022 reiterated his earlier submissions and further submitted as under:-
  - a. He was a junior partner in firm M/s Chitale & Associates and had never interacted with Shri Ashok Kumar Singh or any other Government employees of FIPB or DIPP. In fact, he did not even know existence of such employee till 14<sup>th</sup> March 2015 when he saw them first in CBI Headquarters in New Delhi post his arrest on 13<sup>th</sup> March 2015. Junior partners are admitted in CA firms whereas the overall decision making and running of the firm rests with the Managing Partner or the Senior Partner. He had no decision making authority, and although he was a partner of the firm, all decision making and running of the firm was controlled by CA. Rajendra Chitale.



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- b. If the Board bases its decision on the mere fact of arrest of the Respondent to conclude that he was involved in the complexity of the criminal acts that would be acting beyond jurisdiction.
  - c. As evident from the recording played and transcript, the Respondent never enquired or asked any question or made any comment of this nature. Further his phone was seized on 13th March 2015 and there were only two calls i.e 4<sup>th</sup> March 2015 and 11<sup>th</sup> March 2015. Had there been any other call asking for any kind of document/information (unlike the call records of CA. Rajendra Chitale and CA. K C. Gandhi) CBI would have relied on those calls and not the words "ok..ok" uttered by him in an out of context made by CA. K. C. Gandhi. Hence, it is erroneous to conclude that he was in continuous touch with CA. K. C. Gandhi merely on the basis of two call records.
  - d. Bank Account details constitute reliable evidence, and none of the entries in Bank Statement have any correlation to unreliable excel sheet on computer of M/s. K C Gandhi & Co. Further, the excel sheet has no mention of the name of the Respondent.
  - e. The alleged leaked documents were seized by CBI on 12<sup>th</sup> March, 2015 before they even reached CA. K. C. Gandhi and hence question of usage by M/s. Chitale Group or the Respondent does not arise at all as it never reached them.
5. The Board has carefully gone through the facts of the case and also the oral and written representation of **CA. Paresh Chimanlal Budhdev**.
6. The Board viewed that the contentions of the Respondent that the Board cannot decide on the criminality of act before the Courts concluded their view and the Board could definitely not have gone ahead in this inquiry without having a copy of the entire charge sheet and documents/ evidences upon which reliance was placed and other issues raised by him in his written representation have already been dealt with by the Board while arriving at its Findings holding the Respondent Guilty. The Board further viewed that disciplinary proceedings cannot be kept in abeyance indefinitely as held by Hon'ble Apex Court in the matter of Shashi Bhusan Prasad Vs. Inspector General Central Industrial Security Force & Ors. in its judgment dated 01/08/2019:-

*"18. The exposition has been further affirmed by a three Judge Bench of this Court in Ajit Kumar Nag Vs. General Manager (PJ), Indian Oil Corporation Limited, Haldia and Others 4, this Court held as under: - "As far as acquittal of the appellant by a criminal court is concerned, in our opinion, the said order does not preclude the Corporation from taking an action if it is otherwise permissible. In our judgment, the law is fairly well settled. Acquittal by a criminal court would not debar an employer from exercising power in accordance with the Rules and Regulations in force. The two proceedings, criminal and departmental, are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on the offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service rules. In a criminal trial, incriminating statement made by the accused in certain circumstances or before certain officers is totally inadmissible in evidence. Such strict rules of evidence and procedure would not apply to departmental proceedings. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused "beyond reasonable doubt", he cannot be convicted by a court of law. In a departmental enquiry, on the other 4 2005(7) SCC 764 hand, penalty can be imposed on the delinquent officer on a finding recorded on the basis of "preponderance of probability". Acquittal of the appellant by a Judicial Magistrate, therefore, does not ipso facto absolve him from the liability under the disciplinary jurisdiction of the Corporation. We are, therefore, unable to*



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uphold the contention of the appellant that since he was acquitted by a criminal court, the impugned order dismissing him from service deserves to be quashed and set aside." (Emphasis supplied)

19. We are in full agreement with the exposition of law laid down by this Court and it is fairly well settled that two proceedings criminal and departmental are entirely different. They operate in different fields and have different objectives. Whereas the object of criminal trial is to inflict appropriate punishment on an offender, the purpose of enquiry proceedings is to deal with the delinquent departmentally and to impose penalty in accordance with the service Rules. The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. Even the rule relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused beyond reasonable doubt, he cannot be convicted by a Court of law whereas in the departmental enquiry, penalty can be imposed on the delinquent on a finding recorded on the basis of 'preponderance of probability'. Acquittal by the Court of competent jurisdiction in a judicial proceeding does not ipso facto absolve the delinquent from the liability under the disciplinary jurisdiction of the authority. This what has been considered by the High Court in the impugned judgment in detail and needs no interference by this Court.

20. The judgment in *M. Paul Anthony case* (supra) on which the learned counsel for the appellant has placed reliance was a case where a question arose for consideration as to whether the departmental proceedings and proceedings in a criminal case on the basis of same sets of facts and evidence can be continued simultaneously and this Court answered in para 22 as under:- "The conclusions which are deducible from various decisions of this Court referred to above are:

(i) *Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.*

(ii) *If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.*

(iii) *Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge-sheet.*

(iv) *The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.*

(v) *If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, the administration may get rid of him at the earliest."*

7. Further, as per the Findings of the Board as contained in its report, on the basis of newspaper reports dated 13th March, 2015 regarding leakage and sale of confidential information relating to foreign investments in the Ministry of Finance and Commerce, the extant disciplinary proceedings were initiated against **CA. Paresh Chimanlal Budhdev**. The Board took into view Charge sheet filed by the investigating agency, CBI wherein the role of the **CA. Paresh Chimanlal Budhdev** was squarely dealt with in detail. The Board further took into view the transcript of call record between Mr. K.C. Gandhi (9819263147) and **CA. Paresh Chimanlal Budhdev** (9820039193) and the English translation of relevant content of Folder-2 – Call ID- 10-147236-0-05-20153011-194206. The said telephonic conversation had also been got forensically examined by CBI. Upon perusal of the said transcript of conversation brought on record by CBI, it is evident that **CA. Paresh Chimanlal Budhdev** was in continuous touch with CA. K.C. Gandhi for procurement of documents/ information and was also seem to be discussing by when the information should be received. The Board also noted that **CA. Paresh Chimanlal Budhdev** was arrested on 13th March 2015 and was released on bail on 11th May 2015. The Board further perused the ledger statement for payment made to Mr. A.K.



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Singh by CA. K.C. Gandhi which was seized during investigation by the investigating agency, CBI and noted that on date 11/03/2015, Rs. 15,000/- was mentioned in the column of Mr. Chitale. The Board also perused the bank account made in the books of M/s Chitale & Associates (From 1-Apr-2011 to 31st March 2015) wherein entries of payment made to KC Gandhi & Associates were reflected for professional services rendered in respect of legal consultation in FEMA 1999. On perusal of the said ledger and bank account maintained in the books of M/s Chitale & Associates, the Board inferred that there is direct connection between M/s Chitale and Associates, CA. K.C. Gandhi and Mr. A.K. Singh and **CA. Paresh Chimanlal Budhdev** was a partner of M/s Chitale & Associates during the relevant time. The Board further observed that **CA. Paresh Chimanlal Budhdev** has himself admitted in his written submissions that he knew CA. K. C. Gandhi in a professional capacity as a fellow Chartered Accountant. CA. K.C. Gandhi approached the Respondent one day with a request to specifically arrange a meeting with CA. Rajendra Chitale (Managing Partner of Chitale & Associates). The Respondent did the same and since then both of them worked closely together for many of the FIPB and FEMA matters. The Board was not convinced with the submission of **CA. Paresh Chimanlal Budhdev** that the information received by him was already there in the public domain. The Board was of the view that it is incomprehensible that a professional will rigorously follow up with respect to certain documents/information which are easily available and that too for companies with which he is not remotely professionally associated. The Board also observed that he had been Charge sheeted by CBI on the basis of disclosure Statement of CA. K. C. Gandhi. Thus, on overall examination of the facts, documents and submissions on record, the Board observed that there are circumstantial and corroboratory evidences on record which establish the involvement of **CA. Paresh Chimanlal Budhdev** in the usage of leaked confidential information. The Board was of the view that although **CA. Paresh Chimanlal Budhdev** did not seem to be in direct connect with the alleged Government officials for leakage and sale of confidential information relating to foreign investments in the Ministry of Finance and Commerce, yet, he was, definitely in connect with CA. K.C. Gandhi in obtaining the said information. Thus, it has already been held that **CA. Paresh Chimanlal Budhdev** 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.

8. Upon consideration of the facts of the case, the consequent misconduct of **CA. Paresh Chimanlal Budhdev (M.No.046268)** and keeping in view his oral and written representation before it, the Board decided to Reprimand **CA. Paresh Chimanlal Budhdev (M.No.046268)** and also imposed a Fine of Rs. 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: 11<sup>th</sup> February, 2022

*Jyoti*  
प्रमाणित सत्य प्रतिलिपि / Certified true copy

सीए. ज्योतिका ग्रोवर / CA. Jyotika Grover  
सहायक सचिव / Assistant Secretary  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
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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. : PPR/P/1/2016-DD/1/INF/2016/BOD/551/2020**

**CORAM:**

CA. Prasanna Kumar D., Presiding Officer	(in person)
Smt. Rani Nair, (IRS, retd.), Government Nominee	(through video conferencing)
CA. Satish Kumar Gupta, Member	(in person)

**In Re:**

CA. Paresh Chimanlal Budhdev (M.No.046268), Mumbai ....Respondent

DATE OF FINAL HEARING	:	1 <sup>st</sup> February, 2022
PLACE OF FINAL HEARING	:	New Delhi/ through video conferencing

**PARTIES PRESENT(through video conferencing):**

Respondent	:	CA. Paresh Chimanlal Budhdev
Counsel for the Respondent	:	CA. A.P. Singh

**FINDINGS:**

**Brief Background of the case:**

1. The factual matrix pertaining to the extant case is as under:-
  - a. The Institute on the basis of newspaper reports dated 13th March, 2015 regarding leakage and sale of confidential information relating to foreign investments in the Ministry of Finance and Commerce initiated the extant disciplinary proceedings against the Respondent.
  - b. While examining the said newspaper reports and other information available in public domain it surfaced that a criminal case was registered against Shri Ashok Kumar Singh, Under Secretary, posted in Department of Disinvestment , Ministry of Finance , Government of India and others U/s 120-B , IPC r/w 381 IPC and Section 13(2) r/w 13 (1) (d) of Prevention of Corruption Act, 1988.
  - c. In the said FIR, it was alleged that Shri. Ashok Kumar Singh, Under Secretary, Department of Disinvestment , Ministry Of Finance in connivance with Shri Lala Ram Sharma, Section Officer, Department of Economic Affairs, Ministry of Finance, North Block and Shri Daljeet Singh, UDC, Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce & Industry, Government of India, Udyog Bhawan, New Delhi was passing classified / confidential information in an unauthorized manner pertaining to Foreign Investment Promotion Board

(FIPB) and DIPP to the Respondent, who is running a consultancy firm M/s Chitale & Associate, Nirlon House, Annie Besant Road, Worli, Mumbai, in lieu of illegal gratification.

- d. During investigation, the Respondent was arrested on 13.03.2015 from Mumbai. The complicity of other Chartered Accountant firm M/s K.C Gandhi & Co. was also found. One of the partners in M/s K.C. Gandhi & Co, CA. Khem Chand Gandhi was arrested on 12.03.2015. Both these Chartered Accountants and other four Government officials arrested in this case were under Judicial Custody remand till 01.04.2015.

#### **Charge Alleged:**

2. The allegation against the Respondent is that he was found involved in seeking confidential information in an unauthorized manner pertaining to Foreign Investment Promotion Board (FIPB) and DIPP from Government officials through illegal gratification.

#### **Brief of Proceedings held:**

3. At the time of hearing held in the case on 15<sup>th</sup> December 2021, the Board noted that the Respondent alongwith his Counsel were present before it through video conferencing, they confirmed that they have read and understood the contents of the modalities and protocols of e-hearing and follow them. Thereafter, the Respondent was put on oath. The charges alleged against the Respondent were taken as read with the consent of the Respondent. Further, on being asked by the Board as to whether the Respondent pleaded guilty in respect of the charges alleged against him, he replied in negative and his Counsel made his detailed oral submissions before the Board. The Respondent also sought copies of communication with the CBI as referred to in the Prima Facie Opinion to the extent not provided and the copy of the complete Charge Sheet filed against the Respondent.

Upon consideration of the documents and submissions on record, the Board adjourned the hearing in the case with the direction to the office to provide the copies of communication with the CBI as referred to in the Prima Facie Opinion and the copy of the complete Charge Sheet to the Respondent.

4. Thereafter, at the time of hearing held in the case on 30<sup>th</sup> December 2021, the Board noted that the Respondent alongwith his Counsel was present before it through video conferencing. Further to the hearing held in the case on 15<sup>th</sup> December 2021, the Counsel for the Respondent made his detailed oral submissions before the Board. The Respondent was examined by the Board. On consideration of the documents and submissions on record the Board adjourned the hearing in the case with the direction to the Respondent to submit the following documents/ information:

1. Details and nature of payment between CA. Rajendra P. Chitale and Mr. Khem Chand Gandhi.
2. The context in which the telephonic discussion was going on between the Respondent and Mr. K.C.Gandhi in the audio played by the Respondent during the hearing.
3. Explain how the information being sent by Mr. K.C.Gandhi was already in public domain. (u)

4. An Affidavit to the effect that the Respondent did not had any professional relationship with the companies under question.

In compliance of above directions, the Respondent submitted his written clarifications vide letter dated 08/01/2022 alongwith following documents:-

- a. Affidavit of the Respondent on stamp paper dated 1 January 2022 wherein he stated that he was a partner of Chitale & Associates, Chartered Accountants FRN No: 115044W, from 24<sup>th</sup> December 2006 to 30<sup>th</sup> September 2017. M/s. Kakade British Realty Pvt Ltd and M/s. Prime Living Pvt Ltd were not the clients of Chitale & Associates, and neither M/s. Chitale & Associates nor Respondent had any professional dealings with the above referred two companies in any manner whatsoever at any point of time.
  - b. Compounding application and hearing notice dated 5 March 2015.
  - c. Master Circular on compounding 1 July 2014 to 30 June 2015.
5. Thereafter, at the time of hearing held in the case on 1<sup>st</sup> February 2022, the Board noted that the Respondent alongwith his Counsel was present before it. The Counsel for the Respondent made his further detailed submissions before the Board. The Respondent was examined by the Board. On consideration of the documents and submissions on record, the Board decided to conclude the proceedings in the case.

**Brief Submissions of the Respondent:**

6. The Board noted that the Respondent in his defence, inter-alia submitted as under:-
  - a. The Respondent denied all the allegations and charges raised against him being frivolous and baseless.
  - b. There was not even an iota of proof against the Respondent. Nowhere in the plethora of records produced by CBI, has the name of the Respondent appeared in incriminating manner. The only probable piece of paper on which CBI is apparently relying was an excel sheet (possibly extracted from Mr K C Gandhi's computer during search on 12 March 2015) in which there is a mention of 'Chitale' with an amount of Rs.15000/- it is not even appearing in the extract of any ledger account. By no stretch of imagination, this can ever be accepted as an evidence to implicate the Respondent.
  - c. On the basis of newspaper reports dated 13 March to 18 March 2015 regarding leakage and sale of confidential information relating to foreign investments in the Ministry of Finance & Commerce, ICAI sought information from CBI about the same. CBI responded that Respondent was involved in the case. The allegation against the Respondent as a partner of M/s Chitale & Associate, CAs is that the firm M/s Chitale & Associates, CAs was found involved in seeking confidential information in an unauthorised manner pertaining to Foreign Investment Promotion Board (FIPB) and DIPP from Government officials through illegal gratification. Absolutely no material has been placed on record in the case by CBI suggesting any role right from the very inception till the end of the whole transaction in the conspiracy of the alleged crime.
  - d. Brief facts as per Respondent are as under:-
    - i. The Respondent started working for the CA firm M.P. Chitale & Associates from April 1999 after a small stint initially at Gautam Doshi & Co., CAs (2 years after passing out CA) and later with the Company, Godavari Sugars Ltd. (3 years). The Respondent was more of an academician and was never

interested in the attestation function and as such never signed or certified any audit reports etc.

- ii. In April 2005, Respondent was promoted to the "so called status of being a partner of the firm. Although the Respondent perceived this achievement to be a result of his hard work and diligence, the Respondent later learnt that it was more of a retention strategy.
- iii. In November 2006, the main partner of the firm, CA. Rajendra Chitale asked the Respondent to resign from the firm and join his another firm, M.P. Chitale & Associates as partner as the only other partner from that firm, CA Uday Chitale resigned and Mr. Rajendra Chitale did not want the firm to get converted into his proprietary firm. The Respondent was rather surprised with this change since M.P. Chitale & Associates was having only Chitales (family members) as the partners. Even though the Respondent was a partner, his authority in this firm was negligible. The partnership deed made the senior partner, CA Rajendra Chitale, as the Managing Partner and he held complete decision-making power, even for day to day matters of office operations. The Managing Partner had 70% share of profits in work done under his supervision and 99% for work done by him, i.e Mr. Rajendra Chitale whereas Respondent's share was 30% in the profits of work done under his supervision and 1% of work done under CA. Rajendra Chitale. Therefore, it was profit-sharing with respect to the work done whereto the majority profit was allocable towards goodwill, belonging to CA. Rajendra Chitale.
- iv. The Managing Partner was solely entitled to the goodwill of the firm and the firm had the family name of the Managing Partner. CA. Rajendra Chitale even had the authority to remove the Respondent as partner at any point of time. Thus, the Respondent was a partner for name-sake. Further there was a cap of Rs. 5 lakh for Respondent on cheque signing of the Firm.
- e. The Managing Partner CA. Rajendra P Chitale is a Chartered Accountant and also a Law Graduate whereas the Respondent was simply a qualified Chartered Accountant. The Managing Partner CA. Rajendra P Chitale has several entities in which he and his family members have economic interest and he is also on board of several listed companies in capacity of a member of the Boards.
- f. The Respondent continued in the same firm without any objection since his only interest was the academics and work. The Respondent was never interested in status or control and hence was not unhappy about it. These facts are mainly put here to bring out his position vis-s-vis the Managing Partner, who later literally used the Respondent as a pawn in his scheme of events which has led to this present complaint. The Respondent was merely a cog in his machine; he not only plotted the whole scheme but also was the main perpetrator in its execution.
- g. In the meantime, the Respondent was asked to change his office place (another decision about which the Respondent absolutely had no say) first to Kamala Mills Compound and later to Nirlon House. This latter was a huge office premise of 3000 Sq. Ft., of which the place allotted for M.P. Chitale & Associates was 250 Sq .ft., of which the Respondent occupied a cabin of 70 Sq. ft. - till the day the partnership closed in 2017. The rest of the space was used by Chitale Law Associate, a law firm engaged in the business of legal practice with about a dozen lawyers and solicitors working for them. This firm not only used the space for operations but also for storage of data and documents. The Respondent occupied an insignificant portion of the office with very limited number of storage space. Since both the firms operated from the same premises, the visitors and inward documents of both the offices entered the same space simultaneously, though they may be totally independent of each other's work requirements.
- h. CA. Khemchand Gandhi, another alleged co-conspirator in this complaint, was a regular visitor and associate of this law firm, Chitale Law Associate since he was an expert in FEMA matters and he was consulted for some of their firm's clients.

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- i. In due course of time, due to change in Service Tax provision which exempted lawyers as being a taxable service, CA. Rajendra Chitale changed the billing of Mr. Khemchand Gandhi to Chitale & Associates instead of Chitale Law Associate to ensure that Service Tax credit could be claimed if payment was made by Chitale & Associates.
- j. The Respondent knew Mr. Gandhi in a professional capacity as a fellow Chartered Accountant. He approached the Respondent one day with a request to specifically arrange a meeting with CA. Rajendra Chitale. The Respondent did the same and since then both of them worked closely together for many of the FIPB and FEMA matters.
- k. Meanwhile, around 2007, CA. Rajendra Chitale decided to discontinue tax compliance practice and also asked the Respondent to focus more on tax advisory services which involved private equity fund advisory, merger and acquisitions, restructuring, transaction related tax advice, ARCS etc. Since this was a new field for Respondent, he was totally immersed in getting specialised knowledge and did not pay serious attention to what was going around Respondent in the office. The Respondent did refer to Mr. Gandhi occasionally to consult on a specific matter since he was an expert in the field of FEMA.
- l. When CBI raided the office of Chitale & Associates on 13 March 2015, the Respondent was totally taken aback. The Respondent had never even imagined being accused with a Charge of having colluded in an illegal matter and therefore, it was a severe blow.
- m. CBI has Chargesheeted the Respondent with Section 120B of IPC read with Section 381, 451 and Section 13 (1)(d) and Section 13 (2) of Prevention of Corruption Act. Absolutely no material has been placed on record by the CBI which suggests any role played by the Respondent from the very inception till the end of the whole transaction in the conspiracy of the alleged crime.
- n. The allegations as per the Chargesheet of CBI are based on only the following material obtained by CBI -
  - i. Courier addressed to K.C. Gandhi intercepted by CBI on 12.03.2015
  - ii. Conversations intercepted by CBI between Respondent and CA Khemchand Gandhi on 11.03.2015 at 19.42.06 i.e. 07.42.06 p.m.
  - iii. An Excel Sheet obtained by CBI from the computer of CA. K.C. Gandhi.
- o. Regarding allegation I - Certain documents were required by Respondent and Respondent made a payment of Rs. 15,000/- to CA. K.C. Gandhi on 11.03.2015 as proved from the excel sheet obtained from the computer of K.C. Gandhi:
  - i. The alleged documents mentioned above as confidential/ classified were already in public domain and were openly accessible through RTI. This fact was also admitted by the Department of Economic Affairs through its concerned official in a proceeding conducted before Central Information Commission where they admitted to the fact that the Ministry was providing information pertaining to minutes of FIPB proposals till 25.03.2014. The Respondent submitted the copy of CIC Order dated 26/05/2015 in Appeal No. CIC/MP/A/2014/001764 downloaded from the internet. All the documents which were confiscated by CBI were already decided prior to 25.03.2014. These proposals were already decided in various meetings prior in 2011 itself.
  - ii. The Respondent also submitted Proof of Review Books published on FIPB site.
  - iii. Moreover, the CBI failed to bring any material/evidence on record which could even in its remotest possibilities show any demand being made by Respondent for the procurement of any such document/ information.
  - iv. Regarding the entry of payment of Rs. 15,000/- alleged to be made by Respondent, Respondent's name was nowhere mentioned in the excel sheet. The said entry was in the name of some 'Chitley' as specifically written at the

top of the said column. It is an absolutely intriguing point as to why Respondent was accused when not even a single entry in the whole excel sheet mentions his name. Further, no evidence to the effect that there was any financial discussion of any payment etc. exists on any call, whereas the accounts statement in Exhibit D89 of the chargesheet by CBI has full details of professional fees made through banking channels to Mr. K.C. Gandhi by Chitale over four years and the same is duly reflected in the books of M/s Chitale & Associates.

- v. Regarding the evidence produced, the Respondent referred to judgment of Hon'ble High Court of Delhi held in the case of L.K. Advani vs CBI which has also been confirmed by the Hon'ble Supreme Court in the case of CBI vs V.C. Shukla (reported in 1998 3SCC Page 410) as follows-

*"Let us now see as to whether the alleged entries in the diaries and the loose sheets are admissible under Section 34 of the Evidence Act as contended by the learned counsel for CBI? (67) Section 34 of the Evidence Act deals with entries in books of account and when the same would be relevant. It envisages "Entries in books of account regularly kept in the course of business are relevant whenever they refer to a matter into which the Court has to enquire but such statement shall not alone be sufficient evidence to charge any person with liability." Thus to make the entries relevant and admissible under Section 34 of the Evidence Act it must be shown : (a) that the said entries are in books of account; (b) the said books of account are being regularly kept in the course of business; (c) the said entries alone be not sufficient enough to charge any person with liability. Thus as per the requirement of law the CBI in order to make the entries in the said diaries and the loose sheets admissible in evidence must show that the same fall within the ambit of an account book within the meaning of Section 34 of the Evidence Act."*

- p. Regarding allegation II - Courier intercepted by CBI on 12.03.2015 -

- i. This courier was to Mr. K.C. Gandhi and not to Respondent or to Chitale & Associate. It is alleged that the courier contained some FERA and FEMA proposals. None of the above-said proposals was confidential/ classified; rather all these were already decided (approved/rejected) proposals and in fact, are very much available in the Public domain.
- ii. The only fact that Respondent was a partner of the firm which engaged K.C. Gandhi as a consultant for FERA and FEMA matters cannot be a basis for charging the Respondent with this allegation. The Managing Partner of the firm is left scot-free and a junior partner like Respondent, who had hardly any authority and role in the matter, was made a scapegoat. The Managing Partner made over 8 to 10 foreign trips every year whereas the Respondent hardly travelled twice abroad during the whole tenure of 10 years with last such trip in October 2009.
- iii. The Respondent also referred to the recent decision of Hon'ble Apex Court in India in the case of Dipakbhai Jagdishchandra Patel vs State of Gujrat & Ors. (MANU/SC/0595/2019) where it has been held as follows -  
*"At the stage of framing the charge in accordance with the principles which have been laid down by this court, what the Court is expected to do is, it does not act as a mere post office. The Court must indeed sift the material before it. The material to be sifted would be the material which is produced and relied upon by the CBI. The sifting is not to be meticulous in the sense that the Court dons the mantle of the Trial Judge hearing arguments after the entire evidence has been adduced after a full-fledged trial and the question is not whether the CBI has made out the case for the conviction of the accused."*

*All that is required is, the Court must be satisfied that with the materials available, a case is made out for the accused to stand trial.*

*A strong suspicion suffices. However, a strong suspicion must be founded on some material. The material must be such as can be translated into evidence at the stage of trial. The strong suspicion cannot be the pure subjective satisfaction based on the moral notions of the Judge that here is a case where it is possible that accused has committed the offence. Strong suspicion must be the suspicion which is premised on some material which commends itself to the court as sufficient to entertain the prima facie view that the accused has committed the offence."*

- q. Regarding allegation III - Conversations intercepted by CBI between Respondent and CA. Khemchand Gandhi on 11.03.2015 at 19.42.06 i.e. 07.42.06 p.m.-

- i. In this alleged conversation K.C. Gandhi informed Paresh Budhdev that the documents which were sought by Paresh Budhdev were dispatched through DTDC. The relevant portion of the conversation in question is reproduced below - Folder II – Call - ID 10&147236&0&05&20153011&194206

*"K.C. Gandhi: aur woh delhi se bhi jo aapneymangayathana char mein se nai think teen hogayahai, woh paper aaj DTDC se niklagaya mere paasayegakal parson kabhi.*

*Paresh: ok, ok."*

- ii. This was the only audio conversation mentioned in the CBI Chargesheet, which is used as evidence against Respondent. It is also mentioned in the PFO that the auditory examination of this exhibit is similar to the specimen voice marked as that of the Respondent in respect of their linguistic and phonetic features.
- iii. As is evident from this call, it was regarding adjournment to be sought for a compounding hearing before RBI for a client of the firm, for which an email was sent by Mr. K.C. Gandhi to Respondent on 11.03.2015 and it is quite apparent from the bare reading of the transcript of the said call on 11.03.2015 that Mr. K.C. Gandhi, out of nowhere, suomoto, without any enquiry from his side, made the statement to which the Respondent only replied as "ok, ok", without possibly even being able to comprehend the casual statement made out of context of the discussion of the call.
- iv. Out of few hundred calls of Mr. K.C. Gandhi being recorded from 27th Feb 2015 to 13th March 2015, the Respondent only conversed with him once. There are other recorded conversations with various other people including CA. Rajendra P. Chitale, the Managing Partner of the firm, M/s Chitale and Associates, during the period 27th Feb 2015 to 13th March 2015. The Respondent submitted calls recorded between Mr. Rajendra Chitale and Mr. K.C. Gandhi forming part of the Chargesheet, where communication regarding several things, including possible relocation of Mr. Gandhi to Delhi etc., calling for a few papers etc. alongwith its transcript furnished through his lawyer in the Hon'ble Court to support his claim.
- v. Besides the abovesaid extract of conversation between the Respondent and Mr. K.C. Gandhi, not even a single extract of any other conversation between them has been placed on record by the CBI wherein the alleged involvement of Respondent, for demanding any document or information whatsoever, was found.

- vi. Multiple calls and e-mails were made by CA. Rajendra P. Chitale (Managing Partner of M/s Chitale and Associates) to K.C. Gandhi for the procurement of the documents/ information, but neither his call transcripts were reproduced by the CBI nor was it placed on record.

7. The Respondent in his written clarifications submitted vide letter dated 08/01/2022 inter-alia submitted as under:-

- a. Regarding clarification as to how the information being sent by Mr. K C Gandhi relating to M/s Kakade British Pvt Ltd and M/s Prime Living Pvt Ltd as the same was already in public domain – the Respondent submitted that role of Foreign Investment Promotion Board's ("FIPB") was to promote Foreign Investment in India, therefore always it had a robust website disclosure where information on all applications filed before it, together with brief summary notes on the consideration of those applications was posted on regular basis. The information was updated every few days till FIPB was abolished/or done away with at the end of 2015.

All decisions at every meeting of FIPB were also made public on its website as part same interactive process. Further as a part of same interactive process, FIPB published Annual Report "Annual Review" possibly from 2003 onwards as a part of interactive website on its website. The Respondent submitted the FIPB publication alongwith his earlier submissions dated 28th March 2021 to support his claim. This publication is much before March 2015 when CBI acted against the Respondent. Further, the application of M/s Kakade British Pvt Ltd was rejected on 25th April 2012, and the application by M/s Prime Living Pvt Ltd was rejected on 6th March 2014. FIPB official representing before Chief Information Commissioner ("CIC") had confirmed that information is parted under Right to Information Act 2005 till 25th March 2014. Accordingly, the information was available in the official publication of FIPB, and any person could have also obtained it through an application made by RTI Act. The question of obtaining the same information through illegal means did not arise at all.

- b. Regarding the telephonic discussions between Mr. K C Gandhi and the Respondent - the contents of the discussions in the recordings of the 4 calls played at the time of hearing dated 30th December 2021; two calls were between Mr. K C Gandhi and Mr Rajendra P Chitale Managing Partner of M/s Chitale & Associates. The said two calls were on 28th Feb 2015 and 2nd March 2015. The Transcript of said calls were provided with Respondent's Submissions dated 28th March 2021. Besides the 2 calls between Mr Rajendra P Chitale and Mr K C Gandhi enumerated above, there are two calls between Mr K C Gandhi and Respondent on 4th March 2015 and 11th March 2015 at 7. 42 P.M. In both these calls, the discussion is primarily relating to hearing of M/s Gati Ltd., Hyderabad Compounding Application filed on 8th Jan 2015 before Central Office Reserve Bank of India Mumbai. The Respondent submitted copy of acknowledgement of the application, and notice of hearing issued by Reserve Bank of India to support his claim. Gati Ltd was a client of M/s Chitale Group.

(d)

As per Annual Master Circular by Reserve Bank of India for period 1st July 2014 to 30th June 2015 any infraction of Foreign Exchange Management Act 1999 ("FEMA") or Rules and Regulations could voluntarily be compounded by any client/company by filing necessary Compounding Application with Reserve Bank of India.

In Gati Ltd., Hyderabad case, Reserve Bank of India held that the case needs to be compounded, and therefore a notice was issued to fix the hearing on a date convenient to both parties, RBI Official of a senior level (probably Chief Manager level) and an Officer of Gati Ltd. GATI was to be represented by Mr Sanji Jain. Since Mr. Sanjeev Jain (probably Chief Financial Officer or Finance Director of GATI) was expected to travel abroad in March 2015, a request was put forth to fix the hearing in April 2015. Further, Mr. Sanjeev Jain was expected to finalise the annual accounts of Gati Ltd on his return. Neither any Reserve Bank of India Official nor Mr Sanjeev nor any official of Gati Ltd have been named as accused or witness or summoned by CBI as evident from Chargesheet filed in the Hon'ble Court. Further at the relevant point of time, Reserve Bank of India at all its Mumbai Offices used to allow visitors, including Chartered Accountants, on all working days during working hours after maintaining proper security records at the point of entry.

Possibly Mr. K C Gandhi on his visit on 4th March 2015 was informed that notice (in the matter of GATI) for hearing as per Master Circular is issued. This was the communication in both the calls between Mr. K C Gandhi and the Respondent on 4th March 2015 and 11th March 2015.

Accordingly, there was nothing in the nature of confidential information that was discussed between Mr Gandhi and the Respondent.

- c. Regarding nature of transactions between KCG and Chitale firm: As per Chargesheet filed by CBI, Page D 89 contains the statement of Accounts seized from the office of Chitale Advisory Service Pvt Ltd owned by Mr Rajendra P Chitale and his family members during search of office of Chitale Advisory Service Pvt Ltd on 13th March 2015. This statement specifically contains the ledger account for Mr. K C Gandhi in the books of Chitale and Associates as well as M P Chitale Law Associates. This statement shows payments made by Cheques or wire transfers through Axis Bank Ltd accounts of M/s M.P Chitale Law Associates and M/s Chitale & Associates commencing from July 2008 to 9th March 2015. All payments to Mr. K C Gandhi by M P Chitale Law Associates and Chitale & Associates were against invoice raised from time to time.

#### **Observations and Findings of the Board:**

8. The Board observed that following preliminary objections were raised by the Respondent during proceedings:-
  - a. Extant Disciplinary proceedings are quasi criminal in nature.



- b. The Director (Discipline) on the basis of press reports has himself stepped in the shoes of the Complainant and started investigation in the matter and further sought documents/ evidences from CBI in order to establish a case.
- c. Information letter is contrary to the Rules - Rule 8 (1)(a) – 60 days
- d. Press reports cannot be the basis of any proceedings

8.1 As regard the plea of the Respondent that the extant proceedings are quasi criminal in nature, the Board opined that Criminal proceedings are distinct from Disciplinary proceedings. The proceedings before the Board of Discipline are quasi-judicial in nature where the misconduct can be proved by preponderance of probabilities having regard to the conduct of the Respondent which is distinct from Criminal proceedings where the misconduct has to be proved beyond reasonable doubt. While coming to the said view, the Board took into consideration the decision of the Hon'ble Supreme Court in the matter of "Ajit Kumar Nag –vs- General Manager (PJ) Indian Oil Corporation Limited-AIR 2005 SC 4217 wherein the Hon'ble Apex Court held as under :-

*"The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rules relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused 'beyond reasonable doubt' he cannot be convicted by a Court of law. In a departmental enquiry penalty can be imposed on the delinquent Officer on a finding recorded on the basis of 'preponderance of probability'."*

Similarly in the matter of Capt. M Paul Anthony –vs- Bharat Gold Mines Limited - AIR....1999 SC 1416 the Hon'ble Supreme Court held as under:-

*"In Departmental proceedings, factors prevailing in the mind of the Disciplinary authority may be many, such as enforcement of discipline or to investigate level of integrity of delinquent or other staff. The standard of proof required in those proceedings is also different from that required in a criminal case. While in Departmental proceedings, the standard of proof is one of preponderance of probabilities, in a criminal case, the Charge has to be proved by the prosecution beyond reasonable doubt."*

Thus, the Board viewed that the plea raised by the Respondent that the extant case is quasi criminal in nature is not sustainable.

8.2 As regard the plea of the Respondent that Press reports cannot be the basis of Disciplinary proceedings, the Board took into view the combined judgment dated 5th September, 2012 passed in Appeal No.1 & 2 of 2012 (Satyam cases) by the Honorable Appellate Authority wherein it was held as under:

*46. The whole Disciplinary Directorate consisting of Director (Discipline) and employees working under him, Board of Discipline and Disciplinary Committee of the Institute are meant to take action in respect of professional misconduct of the Members. This professional misconduct may be brought to the notice of Director (Discipline) either by a complainant or the Director (Discipline) may receive*



information about the professional misconduct through any other source. Sources of information can be many, including a news report. News items appearing in print media, electronic media or internet media may be either truthful or may be altogether false. Director (Discipline) of the Institute cannot refuse to act on information about professional misconduct of a member, which comes to its notice through media on the ground that every media report is merely hearsay and therefore cannot be acted upon. The primary role of Director (Discipline) in such a case would be to find out the truthfulness of the information and once Director (Discipline) comes to conclusion that the information which came to it through media was truthful, it has a duty to act on such information. The Director (Discipline) can refuse to act on false information. However, if the information has substance and is not false information, then the Director (Discipline) has to act on such information. It is not necessary that there has to be an informant to invoke Section 21 and that the Director (Discipline) cannot suo moto take action after coming to know of a serious professional misconduct of a CA through news report or media. Clause (1) of part 4 of First Schedule provides that if a Member is held guilty by civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months, the Member shall be deemed to be guilty of other misconduct. If a news item appears either in print media or in other media about a Chartered Accountant having been convicted by a court for an offence say of cheating, fraud, Rape, theft etc., **it would be obligatory on the part of Director (Discipline) to find out truthfulness of such news item** and thereafter issue notice to the Member and verify the facts from him. The Director (Discipline) has to send its prima facie opinion even in respect of information received through media to the Board of Discipline or the Disciplinary Committee as the case may be. The action on the basis of information includes and means the information received from any source, including media. In the present case, the information of the letter written by Mr. Raju to the Members of the Board of Satyam had appeared in almost all newspapers and all channels of television in India as well as in all important media of foreign country. It would be travesty of justice to say that Director (Discipline) should have kept its hands off because there was no informant in this case."

Thus, the Board was of the view that the Professional/Other Misconduct may be brought to the notice of Director (Discipline) either by a Complainant or the Director (Discipline) may receive information about it through any other source. The sources of information can be many, including a news report. News items appearing in print media, electronic media or internet media may be either truthful or may be altogether false. Director (Discipline) of the Institute cannot refuse to act on information about Professional Misconduct of a member, which comes to its notice through media merely on the ground that every media report is hearsay and therefore cannot be acted upon.

- 8.3 As regard the plea of the Respondent that the Information letter is contrary to Rules 8(1)(a), the Board noted that in terms of Rule 8(1) r/w Rule 11, a copy of the complaint or information shall be forwarded to the Respondent within 60 days of its receipt. The Rules have charted out a detailed disciplinary process and provide that on receipt, the complaint shall be acknowledged in the first instance and a scrutiny shall be carried out; in case any defects are found, they shall be removed. A Complaint gets registered only upon rectification of defects. Thus, it is evident from



the Rules that registration of complaint/Information case is a pre-requisite for forwarding the copy of complaint/information to the Respondent member/firm. Further, 60 days time limit has to be computed from the date of registration and not otherwise as alleged. Since the information letter in the instant case has been issued to the Respondent, within 60 days of registration, plea of Respondent is unsustainable.

- 8.4 As regard the plea of the Respondent that Director (Discipline) stepping into the shoes of the Complainant and started suo moto investigation, the Board observed that Section 21 conferred investigation powers on the Director (Discipline). As stated in the Judgment dated 5<sup>th</sup> September, 2012 of Appellate authority, press reports can be a source of information. However, in such cases, the Director (Discipline) is primarily obligated to ascertain the truth or veracity of such information and once Director (Discipline) comes to conclusion that the information was truthful, he has a duty to act on such information. In the instant case, on the basis of news paper report dated 13-3-2015, particulars as to leakage of confidential information has been sought from CBI vide letters dated 17-3-2015, 27-3-2015. The steps initiated to ascertain the truth and veracity of the information cannot be equated with Director (Discipline) stepping into shoes of the Complainant as he is duty bound to ascertain the truthfulness of the report before proceeding further in terms of the Rules.
- 8.5 As regard the plea of the Respondent that Information letter is silent about the particulars of facts or allegations specifically attributed to Respondent and mere arrest on suspicion cannot be ground for extant disciplinary proceedings, the Board took into view Charge sheet filed by the investigating agency, CBI wherein the role of the Respondent was squarely dealt with in detail and the same is as under:-

*"Ashok Kumar Singh sent the documents of M/s Mordril Properties (India) Pvt.Ltd. through DTDC to Khem Chand Gandhi which was subsequently intercepted by CBI from the DTDC courier on 12.03.2015 at Mumbai. Investigation also established that the documents pertaining to M/s Prime Living Pvt. Ltd. application dt. 09.08.2013 intercepted by CBI, are photocopies of file no.2u3/FCI/2013 page no. 17 to 24.*

*Ashok Kumar Singh sent the documents of M/s Prime Living Pvt. Ltd. through DTDC to Khem Chand Gandhi which was subsequently intercepted by CBI from the DTDC courier on 12.03.2015 at Mumbai.*

*Investigation established that the documents pertaining to M/S Prime Living Pvt. Ltd., M/s Kakade Birtish India Pvt. Ltd. and M/s Mordril Properties India Pvt. Ltd. are required by accused Paresh Chimanlal Budhdev who made a payment of rupees 15,000/- to Khem Chand Gandhi on 11.03.2015 as proved from the excel sheet obtained from the computer of Khem Chand Gandhi in presence of independent witnesses. Khem Chand Gandhi in conversation informed Paresh Chimanlal Budhdev that documents which were sought by Paresh Chimanlal Budhdev were dispatched through DTDC.*

*....Investigation has also established that during search operation at the office premises of accused K.C. Gandhi a ledger sheet regarding payment made to accused Ashok Kumar Singh has also been recovered and seized. The scrutiny of the ledger sheet reveals that on 11.03.2015 accused K.C. Gandhi had received Rs. 15,000/- from Chitale and Rs. 5,000/- from Mohanan. Further, this amount was transferred in the account of accused Ashok Kumar Singh by accused K.C. Gandhi*

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vide cheque no. 690291 and the amount was credited in the account of accused Ashok Kumar Singh on 13.03.2015.

As regards Rs. 15,000/- paid by K.C. Gandhi to Ashok Kumar Singh on behalf of Chitale & Associates through Paresh Chimanlal Budhdev, investigation has established that K.C. Gandhi had paid this amount to Ashok Kumar Singh for obtaining the proposal for FIPB approval pertaining to Prime Living Pvt. Ltd. and Kakade British Realities Pvt. and Mordrill Properties Ltd. It is to be mentioned here that the application regarding proposal for Kakade British Realities Pvt. Ltd. was sent by accused Ashok Kumar Singh to K.C. Gandhi which was intercepted by CBI on 12.03.2015. This is a linking evidence against Mr. Paresh Chimanlal Budhdev for which he had provided Rs. 15,000/- to K.C. Gandhi to obtain the same. It is also to be mentioned that Mr. Paresh Chimanlal Budhdev was arrested in this case on the disclosure of accused K.C. Gandhi that Paresh Budhdev had obtained the copy of various proposals for FIPB approvals of different companies and had paid the amount in return to K.C. Gandhi. This amount was transferred in the account of accused Ashok Kumar Singh by K.C. Gandhi in cash and only a few occasions by cheques. During the custody, Sh. Paresh Chimanlal Budhdev disclosed that he obtained the documents on various occasions from K.C. Gandhi regarding FIPB proposals of various companies for his academic purpose so that his knowledge can be used for his clients. Investigation has also established that Sh. Paresh Chimanlal Budhdev also destroyed some files and other documents after hearing the news on raids on K.C. Gandhi on 12.03.2015....."

Though there is no direct evidence against Ram Niwas that he obtained the photocopies but sufficient circumstantial evidence are available which indicate that in furtherance of criminal conspiracy, accused Sh. Ram Niwas leaked the documents/print outs to Lala Ram and same were handed over to K C Gandhi through Ashok Kumar which were intercepted by CBI and seized from DTDC. These documents(M/s Kakade British Realities Pvt. Ltd., M/s Prime Living Pvt. Ltd., and M/s Mordril Properties Investment Pvt. Ltd.) are meant for Paresh Chimanlal Budhdev partner in M/s Chitale & Associates. accused Ashok Kumar Singh in conspiracy with accused public servant Lala Ram, accused Daljeet Sirlgh and accused Ram Niwas obtained various documents/information through illegal means and passed the same to accused K.C. Gandhi in lieu of illegal gratification. Accused K .C. Gandhi in conspiracy with other private persons including Paresh Chiman Lal Budhdev, Ramakant Kini and Rajesh Khakhar, passing the information obtained from Ashok Kumar Singh to them.

The various documents leaked by accused Ashok Kumar Singh in conspiracy with accused public servant Lala Ram, accused Daljeet Singh and accused Ram Niwas were found in possession of accused Khem Chand Gandhi, Paresh Chiman Lal Budhdev and Ramakant Kini.

Investigation has established that accused Ashok Kumar Singh entered into criminal conspiracy with accused Lala Ram, accused Daljeet Singh, accused Ram Niwas, accused K.C. Gandhi, accused Paresh Chimanlal Budhdev, accused Ramakant Kini' and accused Rajesh Khakhar with object to illegally and dishonestly obtain by pilfering the copies of confidential/restricted documents from the record of Govt. of India. Accused Ashok Kumar Singh with the help of accused Lala Ram, accused Daljeet Singh and accused Ram Niwas illegally obtained/got pilfered the aforesaid copies of Confidential/restricted documents from the record of Govt, of India and dishonestly passed the same to accused K.C. Gandhi for the illegal use and benefit of accused Paresh Chimanlal Budhdev, accused Ramakant Kini and accused Rajesh Khakhar in lieu of illegal gratification."

Thus, the Board was of the view that the role of the Respondent in the entire matter is clearly established.

9. The Board further took into view the transcript of call record between Mr. K.C. Gandhi (9819263147) and the Respondent (9820039193) and the English translation of relevant content of Folder-2 – Call ID- 10-147236-0-05-20153011-194206 is detailed hereunder:-

*"Gandhi: aur kuch paper vagera kai liye*

*Paresh: March ka account chala gaya na*

*Gandhi: haan*

*Paresh: 1<sup>st</sup> May ko unki Board meeting hai*

*Gandhi: haan jo 8 May ko bata denge, phir yai bata dijiye kabhi ka karna hai*

*Paresh: wo order aate aate first week of April aayega kiya hai 5-7 tariq ko to automatically March mai aa jayega naa order aate aate*

*Gandhi: haan usse baat karli maine kisi ko bata dijiye mai de dunga*

*Paresh: thik hai thik hai*

*Gandhi: aur wo delhi sai bhi jo apan nai mangaya than a char mai se na I think teen ho gya hai..... wo paper aaj DTDC sai nikal gaya mere paas aayega kal parso kabhi*

*Paresh: Ok.. Ok.. "*

The said telephonic conversation had also been got forensically examined by CBI. Upon perusal of the said transcript of conversation brought on record by CBI, it is evident that the Respondent was in continuous touch with Mr. K.C. Gandhi for procurement of documents/ information and was also seem to be discussing by when the information should be received.

10. The Board also noted that Respondent was arrested on 13<sup>th</sup> March 2015 and was released on bail on 11<sup>th</sup> May 2015.
11. The Board further perused the ledger statement for payment made to Mr. A.K. Singh by CA. K.C. Gandhi which was seized during investigation by the investigating agency, CBI and noted that on date 11/03/2015, Rs. 15,000/- was mentioned in the column of Mr. Chitale. The Board also perused the bank account made in the books of M/s Chitale & Associates (From 1-Apr-2011 to 31<sup>st</sup> March 2015) wherein entries of payment made to KC Gandhi & Associates were reflected for professional services rendered in respect of legal consultation in FEMA 1999. On perusal of the said ledger and bank account maintained in the books of M/s Chitale & Associates, the Board inferred that there is direct connection between M/s Chitale and Associates, CA. K.C. Gandhi and Mr. A.K. Singh and the Respondent was a partner of M/s Chitale & Associates during the relevant time.
12. The Board further observed that the Respondent has himself admitted in his written submissions that he knew CA. Gandhi in a professional capacity as a fellow Chartered Accountant. CA. K.C. Gandhi approached the Respondent one day with a request to specifically arrange a meeting with CA. Rajendra Chitale (Managing Partner of Chitale & Associates). The Respondent did the same and since then both of them worked closely together for many of the FIPB and FEMA matters. The Board was not convinced with the submission of the Respondent that the information received by him was already there in the public domain. The Board also observed

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that the Respondent specifically gave an Affidavit to the effect that he was not associated in any professional capacity with M/s Kakade British Pvt Ltd and M/s Prime Living Pvt Ltd. The Board was of the view that it is incomprehensible that a professional will rigorously follow up with respect to certain documents/information which are easily available and that too for companies with which he is not remotely professionally associated. The Board also observed that he had been Chargesheeted by CBI on the basis of disclosure Statement of CA. K.C.Gandhi. Thus, on overall examination of the facts, documents and submissions on record, the Board observed that there are circumstantial and corroboratory evidences on record which establish the involvement of the Respondent in the usage of leaked confidential information. The Board was of the view that although the Respondent did not seem to be in direct connect with the alleged Government officials for leakage and sale of confidential information relating to foreign investments in the Ministry of Finance and Commerce, yet, he was, definitely in connect with CA. K.C. Gandhi in obtaining the said information.

13. The Board, considering the submissions and documents on record observed that involvement of the Respondent in the usage of leaked confidential information related to Foreign Investments in the Ministry of Finance and Commerce obtained in an unauthorized manner pertaining to Foreign Investment Promotion Board (FIPB) and Department of Industrial Policy and Promotion (DIPP), cannot be ruled out and such an Act on his part is certainly unbecoming of a Chartered Accountant. Accordingly, the Respondent is held Guilty in respect of the charge alleged.

#### **CONCLUSION:**

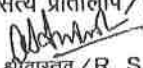
14. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **GUILTY** of Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with section 22 of the said Act.

Sd/-

**CA. PRASANNA KUMAR D.**  
**(PRESIDING OFFICER)**

**Date: 8<sup>th</sup> February, 2022**

प्रमाणित सत्य प्रतिलिपि / Certified true copy

  
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