



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

PPR/60/16/DD/182/INF/18/BOD/550/2020

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. Ravindra Varma Penumetsa (M.No.215631), Andhra Pradesh In Re:

[PPR/60/16/DD/182/INF/18/BOD/550/2020]

MEMBERS PRESENT:

CA. Satish Kumar Gupta, Presiding Officer (Through video conferencing)
Mrs. Rani Nair, (IRS, Retd.), Government Nominee (Through video conferencing)

Date of Final Hearing: 11th February, 2022

1. The Board of Discipline vide Report dated 8th February, 2022 held that **CA. Ravindra Varma Penumetsa (M.No.215631)** is Guilty of Professional Misconduct falling within the meaning of Item (8) of Part I of First Schedule to the Chartered Accountants Act, 1949.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Ravindra Varma Penumetsa** and communication dated 8th 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 11th February, 2022.
3. **CA. Ravindra Varma Penumetsa** did not appear before the Board despite the due service of the notice for hearing for award of punishment. The Board, keeping in view the provisions of Rule 15 (1) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 presumed that he has nothing more to represent before it and decided to proceed ahead with the award of punishment.
4. The Board has carefully gone through the facts of the case.
5. As per the Findings of the Board as contained in its report, a letter and an email dated 15th February, 2016 and 11th March, 2016 respectively were received from Shri V.S. Prakasa Rao of M/s Sarma & Co., Rajahmundry (Andhra Pradesh) ("Informant") alleging that while **CA. Ravindra Varma Penumetsa** was the Statutory Auditor of M/s Sri Murali Mohana Boiled and Raw Rice Mill Pvt Ltd. ('Company') for the Financial Year ending 31.03.2014, he signed the Balance Sheet of the said company for the Financial Year ending on 31.03.2015 without intimating the previous Auditor i.e., the Informant. **CA. Ravindra Varma Penumetsa** brought on record copy of the Financial statements of the Company for the Financial Year 2013-14 audited by the Informant wherein there was an outstanding of Audit Fees of Rs. 40,000/- (Forty Thousand Rupees) to be paid to the previous auditor

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i.e. informant and copy of the letter dated 10th March 2015 as regards his appointment as the Statutory auditor of the company and the letter dated 15/03/2015 addressed to M/s. Sarma & Co., Chartered Accountants seeking their no-objection with respect to his appointment as statutory auditor of M/s. Sree Murali Mohana Boiled & Raw Rice Mill Private Limited for the Financial year 2014-15. However, **CA. Ravindra Varma Penumetsa** failed to bring on record any proof of delivery of the said letter on the Informant and attributed the same to misplacement of records due to shifting of his office. Accordingly, the Board observed that in the instant case, **CA. Ravindra Varma Penumetsa** has failed to bring on record any positive evidence of delivery of said letter to the Informant. Thus, it has already been held that **CA. Ravindra Varma Penumetsa** is Guilty of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

6. Upon consideration of the facts of the case and the consequent misconduct of **CA. Ravindra Varma Penumetsa (M.No.215631)**, the Board decided to Reprimand **CA. Ravindra Varma Penumetsa (M.No.215631)**.

Sd/-
CA. SATISH KUMAR GUPTA
(PRESIDING OFFICER)

DATE: 11th February, 2022

प्रमाणित सत्य प्रतिलिपि / Certified true copy

R. S. Srivastava
आर. एस. श्रीवास्तव / R. S. Srivastava
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, 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.: [PPR/60/16/DD/182/INF/18/BOD/550/2020]

CORAM:

CA. Satish Kumar Gupta, Presiding Officer (attended physically)
Mrs. Rani Nair (IRS, Retd.), Government Nominee (through video conferencing)

In Re:

CA. Ravindra Varma Penumetsa (M.No.215631), Andhra Pradesh Respondent

DATE OF FINAL HEARING : 1st February, 2022

PLACE OF HEARING : New Delhi/Through video conferencing

PARTIES PRESENT :

Respondent : None

Findings:

Charge Alleged:

1. The Board noted that a letter and an email dated 15th February, 2016 and 11th March, 2016 respectively were received from Shri V.S. Prakasa Rao of M/s Sarma & Co., Rajahmundry (Andhra Pradesh) (hereinafter referred to as the "Informant") alleging that while he was the Statutory Auditor of M/s Sri Murali Mohana Boiled and Raw Rice Mill Pvt Ltd. (hereinafter referred to as the 'Company') for the Financial Year ending 31.03.2014, the Respondent signed the Balance Sheet of the said company for the Financial Year ending on 31.03.2015 without intimating the previous Auditor i.e., the Informant.

Brief of Proceedings held:

2. During the proceedings held in the case on 7th April 2021, the Board noted that the Respondent was not present before it. The Board further noted that at earlier occasion i.e.,

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at the time of hearing held on 24th March, 2021 also, the Respondent was not present. On consideration of the documents on records, the Board decided to provide a final opportunity to the Respondent on account of natural justice to appear before the Board and also directed the office to call following documents/ information from him:

1. Copy of the audited financial statement of M/s Sri Murali Mohana Boiled and Raw Rice Mill Pvt Ltd. for the financial year 2013-14 and 2014-15.
2. Details of audit fee outstanding of the previous auditor, if any
3. Proof of change in his office address

Further, the Board also directed the office to check from ICAI's record / Member and Student Section of ICAI whether the Respondent was a partner in M/s Sarma & Co., Rajahmundry (Andhra Pradesh) and whether any change in his professional address was intimated to the Member section, ICAI.

In compliance of the said directions of the Board, the Respondent provided the additional documents/ records sought for from him.

Thereafter, during the hearing held in the case on 1st February 2022, the Board noted that the Respondent was neither present before it nor was any intimation as regards his non-appearance. However, since the written submissions of the Respondent were already on record and in which, amongst other things, he stated that the same be taken on record and that he will adhere to any decision taken by the Board in this regard, the Board, keeping in view, the submissions and documents on record decided to conclude the proceedings in the case.

Submissions of the Respondent:

3. The Board noted that the Respondent in his defence, inter-alia, submitted as under:-
 - a. The matter was purely of professional vengeance and was dealt by Shri. V. S. Prakasa Rao of Sarma & Co., Chartered Accountants by suppressing of the information/ letter submitted to him, as though Respondent have made all the efforts to obtain his/ their no objection letter and waited for considerable time but despite of which make an allegation/ complaint against Respondent under the professional misconduct.
 - b. Shri. V.S. Prakasa Rao has not been carrying on the profession in such a manner that it abides by the Rules and Regulations of the Chartered Accountants Act, 1949.
 - c. The Respondent made a request to the Disciplinary Directorate to verify the authenticity of person who has made the allegations against him as he has not filed a formal complaint despite letter addressed to him in this regard.
 - d. The Respondent at the time of giving his written submissions dated 24/08/2018 has not been able to submit the documents in his possession to substantiate his reply. This was due to misplacement of files in his office. The Respondent has shifted to atleast two professional addresses since 2015, hence the letter of appointment from the said Company Sree Murali Mohana Boiled and Raw Rice Mill Private Limited and his letter of communication to the previous auditor could not be traced in his files due to their misplacement at the time of shifting of his office premises during 2015 and hence were

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- not attached with his previous submission. During the course of shifting to his new premises during 2019-20, the Respondent has found the relevant data recently.
- e. The Respondent submitted copy of his appointment letter and his letter of communication with M/s Sarma & Co., Chartered Accountants (previous auditor) for perusal of the Board.
 - f. The Respondent also placed on record audit reports of the Company for FY 2013-14 and 2014-15.
 - g. There was no fee due from any of the previous auditors. Further, there is no communication in this regard or any complaint in this regard.
 - h. Regarding the Proof of Change of Address, the Respondent submitted that during the period 2011-2015 his corresponding and professional address was 78-4-54, Near Rythu Bazar, Symala Nagar, Rajahmundry 533103, East Godavari, Andhra Pradesh and during the period from 2015 to 2020 his corresponding and professional address was 202, Kelam Classic Apts., Old Somalamma Temple Street, Symala Nagar, Rajahmundry 533103, East Godavari, Andhra Pradesh. From 2020, his professional address is being continued at C-29, Kanchana Nagar 4th Street, Near AKC Degree College, Venkateswara Nagar, Rajahmundry 533103, East Godavari, Andhra Pradesh. The change of address has been communicated to the ICAI. The Respondent also submitted copy of bill of his office telephone with number 0883- 2433228 with the changed address to support his claim.
 - i. The Respondent acted in good faith and any lapses from his side is not intentional.

Observations and Findings of the Board:

4. The Board on consideration of the submissions and documents on record, observed as under:

- 4.1 The Board noted that the Informant alongwith extant complaint submitted copy of Form 3CA (See rule 6G(1)(a)) – Audit report under Section 44AB of the Income-tax Act, 1961 dated 30/09/2015 submitted by the Respondent on behalf of Sree Murali Mohana Boiled and Raw Rice Mill Private Limited (Company) wherein it was mentioned that Respondent conducted audit of the Company in pursuance of the provisions of the Companies Act, 2013 and annexed his audit report dated 03/09/2015 along with copy of audited Profit and Loss Account for the period beginning from 01-4-2014 ending 31-03-2015, the audited balance sheet as at 31-03-2015 and documents declared by the said Act to be part of, or annexed to, the Profit and loss account and balance sheet. The Informant also submitted copy of Form No. 3CD (See rule 6G(2)) – Statement of particulars required to be furnished under section 44AB of the Income-tax Act, 1961 dated 30/09/2015 and Form No. 29B (See rule 40B) – Report under section 115JB of the Income-tax Act, 1961 for computing the book profits of the company. Thus, the Board noted that to corroborate his allegation, he has provided on record the Audit Report of the said Company for the FY 2014-15.
- 4.2 The Board further noted that the Respondent brought on record copy of the Financial statements of the Company for the Financial Year 2013-14 audited by the Informant wherein

there was an outstanding of audit fees of Rs. 40,000/- (Forty Thousand Rupees) to be paid to the previous auditor i.e. informant.

4.3 The Board further noted that the Respondent brought on record copy of the letter dated 10th March 2015 as regards his appointment as the Statutory auditor of the company and the letter dated 15/03/2015 addressed to M/s. Sarma & Co., Chartered Accountants seeking their no-objection with respect to his appointment as statutory auditor of M/s. Sree Murali Mohana Boiled & Raw Rice Mill Private Limited for the Financial year 2014-15. However, the Respondent failed to bring on record any proof of delivery of the said letter on the Informant and attributed the same to misplacement of records due to shifting of his office. The Board, on perusal of the Member records of ICAI, also observed that intimation regarding change of address had also been given by the Respondent.

4.4 The Board took into view the provision of Item (8) of Part I of First Schedule to the Chartered Accountants Act, 1949 which provides as under:-

"(8) accepts a position as auditor previously held by another chartered accountant or a certified auditor who has been issued certificate under the Restricted Certificate Rules, 1932 without first communicating with him in writing"

Further, as per Code of Ethics (Reprint December, 2010 Edition) :

"The requirements of Clause (8) of Part I of the first Schedule can be considered to have been complied with only:

(i) if there is evidence that a communication to the previous auditor had been by R.P.A.D (Registered Post Acknowledgment Due).

(ii) if there was positive evidence about delivery of the communication to the previous auditor.

In the absence of both, the member should be found to have contravened this Clause.

(R.M. Singhai & Associates vs. R.V. Agarwal - Page 155 of Vol. VI(2) of Disciplinary Cases - Decided on 15th, 16th and 17th December, 1988)

The Board observed that in the instant case, the Respondent has failed to bring on record any positive evidence of delivery of said letter to the Informant. Accordingly, the Board is of the view that the Respondent has committed an act of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 for accepting the Statutory audit of the Company for the FY 2014-15 without first communicating with the Informant.

CONCLUSION:

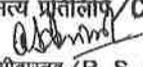
5. The Board of Discipline, in view of the above, is of the considered view that the Respondent is **Guilty** of "Professional" Misconduct falling within the meaning of Item (8) of Part I of First Schedule to the Chartered Accountants Act, 1949.

Sd/-

CA. SATISH KUMAR GUPTA
(PRESIDING OFFICER)

Date: 8th February, 2022

प्रमाणित सत्य प्रतिलिपि / Certified true copy


आर. एस. श्रीवास्तव / R. S. Srivastava
सहायक सचिव / Assistant Secretary
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