

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/37/2014-DD/69/2014/BOD/379/2017]

CORAM(present in Person):

CA. Prasanna Kumar D., Presiding Officer
Ms. Dolly Chakrabarty (IAAS, Retd.), Government Nominee
CA. (Dr.) Raj Chawla, Member

In the matter of:

Shri. Shivraj Singh
H. No.2/28,
Roop Nagar,
Delhi – 110007

.....Complainant

Versus

CA. Kamal Jain (M. No.085247)
Room No.206, R. K. House,
WP-504, Shiv Market,
Ashok Vihar,
Delhi – 110052

.....Respondent

DATE OF FINAL HEARING : 26th April, 2022
PLACE OF FINAL HEARING : New Delhi / through video conferencing

PARTIES PRESENT(through video conferencing):

Counsel for the Complainant : Mr. Rakesh Wadhwa, Advocate alongwith Mr.
Manish Jain, Advocate

Respondent : CA. Kamal Jain

FINDINGS:

BRIEF BACKGROUND OF THE CASE:

1.1. The Complainant alleged that the Respondent in connivance with his wife and other friend namely Sh. Rajesh Gupta has fraudulently transferred one of the shops of the ground



floor of the property i.e. H. No. 2/28, Roop Nagar, Delhi in the name of his wife namely Preeti Jain. The Respondent has in past got arranged one loan of Rs. 2 lacs from one of his close friend namely Rajesh Gupta on 02/03/2000 and in respect of the above said loan certain security documents were executed regarding one of the shops which was duly paid. Similarly, again another loan of Rs. 5 lacs were arranged from the same person over the previous security documents in year 2002 and same was also paid back. Lastly, another loan for a sum of Rs. 5 lacs was also arranged by the Respondent from the above said Sh. Rajesh Gupta on 18/09/2003 and another agreement was executed. The subject matter in all the above said transaction was the property papers executed in respect of the corner shop and the loan was also repaid. It is further relevant to mention here that the Respondent was having the actual possession of the security documents and he was a witness to the documents dated 02/03/2000.

- 1.2. The Respondent has been retaining the entire books of account and various other papers/documents and has not returned/restored to the Complainant even after the cessation of the professional relationship. The Respondent has openly threatened the Complainant to transfer his certain property in his name and further he has demanded the extortion of Rs. 1 Crore per annum. The Respondent further threatened the Complainant of dire consequences citing his good relationship with tax officials to falsely implicate into cases.
- 1.3. The Respondent has illegally taken over the Company of the Complainant namely Kempty Konstruction Pvt. Ltd. (hereinafter referred as the Company), having landed properties worth in Crores, by forging his signatures/digital signatures and by misrepresentation to the Registrar of the Companies. The Respondent has kept him in dark, however on the inspection of the records with the Ministry of Corporate Affairs on 14.08.2011; it has come to the notice of the Complainant that the Respondent has appointed his relatives namely Manoj Jain and Sunil Aggrawal onto the board of directors on 10.03.2005 without giving any information to the Complainant. Further the Respondent has also got himself appointed as a director of the Company by forged board resolution dated 25.09.2008 and this fact was also not known to the Complainant.
- 1.4. The Respondent has cheated on the Complainant by transferring his 97.84% of the shareholding to nil by converting the same to his name on 28.09.2008 but interestingly filed the return of the Company on 30.09.2008 under the signature of the Complainant. The Respondent also removed the Complainant from the Board of Directors by forging resignation letter under the forged signature dated 20.10.2008, which was never given by the Complainant which shows the true nature of the misdeeds done by the Respondent. The Complainant is the director and also managing the day to day affair of the Company since 1991 and the Respondent has not only breached the established rule of accountancy but also has cheated on the Complainant by forging and fabricating the



records/digital signatures lying with him under falsh. The Respondent and his wife in well planned conspiracy with relatives who also happen to be the co-directors in the Company who were also inducted illegally and fraudulently into the Company by the Respondent and later on the Company was overtaken by the Respondent illegally/fraudulently in connivance with them.

CHARGE ALLEGED:

2. The allegation of the Complainant relate to transfer of property owned by the Complainant in the name of wife of the Respondent, retention of books/Income Tax Returns of the Complainant by the Respondent, threatening the Complainant to transfer his certain property in his name, illegally taking over the Company and cheating the Complainant by transferring his 97.84% shareholding to nil. The Complainant alleged that the Respondent has illegally taken over the Company of the Complainant namely Kempty Konstruktion Pvt. Ltd., having landed properties worth in Crores, by forging his signatures/digital signatures and by misrepresentation to the Registrar of Companies.

BRIEF OF PROCEEDINGS HELD:

3.1. At the time of hearing held in the case on 20th January, 2021, the Complainant along with his Counsel and the Respondent were present before the Board through video conferencing, the Complainant and the Respondent were put on oath and the parties present confirmed that they have read and understood the contents of the modalities and protocols of e-hearing and follow them. Thereafter, with the concurrence of both the parties, the charges alleged against the Respondent were treated as read. 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 made his detailed oral submissions. The Counsel for the Complainant also made submissions to substantiate the charges alleged against the Respondent. Considering, the submissions and documents on record, the Board adjourned the hearing in the case with the direction to both the parties to submit their counter-submissions to the submissions made by the other party during the hearing.

3.2. Thereafter, at the time of hearing held in the case on 26th April, 2022, the Counsel for the Complainant and the Respondent was present before the Board through video conferencing. Since there was a change in the composition of the Board since the last hearing, the Board gave an option to the parties to the case as to whether they would like to have a De -Novo enquiry or continue from the last proceedings to which they stated that they would like to start the proceedings afresh. Thereafter, the Counsel for the Complainant made detailed submissions to substantiate the charges alleged against the Respondent. The Respondent also made his detailed counter submissions. The Respondent was examined by the Board. On consideration of the documents and submissions on record, the Board gave one week time to the Respondent to file written



submissions, if any, on the issues raised by the Complainant during the hearing/or any other submission and also to the Complainant to file written submissions, if any with a copy to the other party to the case. The Board also decided that a decision as to whether further hearing is required in the case shall be taken on the basis of further written submissions so received from the Respondent/Complainant. Accordingly, the case was partly heard by the Board. Thereafter, the Complainant and the Respondent vide e-mail dated 4th May 2022 and 17th May 2022 made their respective written submission in the matter, a copy of which was also shared with the other party to the case. On consideration of the submissions and documents, thus, on record, the Board at its meeting held on 23rd August 2022 decided that no further hearing is required in the case. Thus, the Board concluded the hearing in the case.

BRIEF SUBMISSIONS OF THE PARTIES:

A. COMPLAINANT:

The Complainant in his written submissions, inter-alia, stated as under:

- 4.1. The Company M/s Kempty Konstructions Private Ltd., wherein the Complainant was a director with 99.80% shareholding, the Respondent was an independent auditor. However, the Respondent claims that his brother Manoj Jain and brother in law, Sunil Agarwal were appointed as director and shares were allotted to each persons. However, there is no Form 32 or Form 2 available on record to prove the same.
- 4.2. Further, in course of proceedings on 26.04.2022, before the BoD, Respondent made an admission with respect to his professional misconduct inter alia on account of the fact that he continued as an independent statutory auditor irrespective of the fact that his brother and brother in law allegedly becomes the directors and shareholders of the said company.
- 4.3. Detailed verification of the contents of the E-form DIN3 which is the prime documents wherein the Respondent made all the manipulation to bring his family member on the board which is in itself is professional misconduct. The Respondent is relying on the alleged Memorandum of Understanding (hereinafter referred to as "MOU") dated 24.09.2008, however, the said MOU is per se bad in law and is outcome of fraud.
- 4.4. Share certificates are the property of the shareholders and land document are the property of the company under the custody of the directors i.e. the Complainant. If these documents are with Complainant, how the company was effectively taken over by the Respondent through this alleged MOU. There is no exchange of share certificates, no signing of share transfer deeds, financial statements for the period 2006-2008 are not filed on MCA on the date of alleged signing of MOU or takeover of company was shifted.
- 4.5. No original MOU was ever made available by the Respondent which he claims to be basis of share transfer, director change and company take over against his huge loans.

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- 4.6 The Complainant questioned why two relatives of the Respondent were shown to be appointed and shares allotted in the year 2005 whereas company is in-operative for more than 20 years and no future plans except a piece of land in the company.
- 4.7 No original resignation letter of the Complainant is there.
- 4.8 Neither any share transfer deed was ever signed, nor any consideration was there nor were share certificates handed over.
- 4.9 Original documents of property of the company were never asked for and till date, it lies with the complainant and share certificates also lies with the Complainant so what kind of company take-over was done.
- 4.10 The Registered office of the company lied at the Residence of the complainant till 2017 whereas the Respondent claims that company was taken over in 2008 by him.
- 4.11 If a director has resigned from the company, why he will file returns with the ROC.
- 4.12 The Respondent was the statutory auditor of the company (a fiduciary and trust-worthy position) and ultimately took over the company fraudulently by involving his relatives illegally. Other civil and criminal proceedings have not attained finality and are sub-judice before the respective statutory authorities like Hon'ble Delhi High Court (Criminal Revision against the Respondent), Hon'ble NCLT (Section 59 petition for rectification of register of members) and before District Courts which are not a part of proceedings before the Hon'ble BoD.
- 4.13 The Respondent was in jail for almost three months which in itself is defamation to the profession.
- 4.14 The Respondent made various bold admissions of his professional misconduct during the course of the hearing dated 26.04.2022. Therefore, It is being humbly prayed that in the interest of the justice, the said recording(s) of the hearing may be preserved.

B. RESPONDENT:

The Respondent in his written submissions, inter-alia, stated as under:

- 5.1 Allegation of Complainant regarding illegal takeover of Company M/s Kernpty Konstruction Pvt. Ltd., has been decided by Hon'ble National Company Law Tribunal vide Order dated 10.07.2017 in favor of Respondent and other Respondents (Mr. Sunil Kumar Aggarwal and Mr. Manoj Jain) in the Company Petition C.P. No.104 (N.D.) 2011 filed by the Complainant, brushing aside all his allegations. On appeal, the Hon'ble NCIAT vide his detailed judgment dated 06.10.2017 also upheld decision of Hon'ble NCLT and did not reverse any finding of Hon'ble NCLT.
- 5.2 Not being satisfied, the Complainant being the Petitioner over there, filed a Civil Appeal before Hon'ble Supreme Court of India and it refused to interfere in the decision of

Hon'ble NCLAT vide his Order Dt 16.03.2018 and did not reverse any finding of Hon'ble NCLAT. All the points raised by the complainant regarding the company documents or other issues that is point number 2,3,4, 5 and 6 was raised by the complainant in his company petition before erstwhile Hon'ble Company Law Board now Hon'ble NCLT in CP No 104 (ND) 2011. It is not out of place of to mention that the company law board and now NCLT is a special Tribunal having exclusive jurisdiction over the Company law matters. The NCLT has cat-gorily dealt in detail with all the allegations and contentions raised in complaint. In Para 16 the Hon'ble NCLT has held the complainant Petitioner guilty of suppression veri for not disclosing MOU and for supressing all documents records. The cat-gorily findings of NCLT shows the true colour of false and bald allegations of the complainant. It is respectfully submitted that NCLT finding petition as patent false and frivolous litigation has imposed a cost of Rs.20, 000/- on the Petitioner which is rare at first instance. Section 430 of the Companies Act, 2013, in company law matters the jurisdiction of the civil court is barred and ousted. In other words, only National Company Law Tribunal shall have jurisdiction instead of civil courts where otherwise civil suits could be filed practically in all districts (having jurisdiction) of any State.

- 5.3 As regard the allegation of Complainant regarding registration of FIR against Respondent for cheating and forging the Share Certificates, unfair means and practice was adopted by the Complainant in getting FIR registered and subsequent malicious arrest of Respondent on 24/12/2013. The Respondent along with other alleged accused in the above FIR, Mr. Sunil Kumar Aggarwal and Mr. Manoj Jain for whom he had alleged illegal appointment in his complaint in Company M/s Kempty Konstruction Pvt. Ltd. has been discharged by the Ld. Chief Metropolitan Magistrate, Rohini Court vide Order dated 17.08.2019 at the stage of framing of charges only as no material was available in the Charge Sheet to conduct the Trial on alleged accused persons. Here it is pertinent to mention that framing of charges is first step in the initiation of criminal trial and not taking cognizance of the charge sheet at framing of charges itself point out that charge sheet filed against respondent was without any merits and substance and was a part of frivolous FIR and the investigation got executed by the complainant through unfair means. The contention that revision against Discharge order is pending in Hon'ble High Court doesn't change position from discharged to accused.
- 5.4 The Complainant through this compliant is trying to re agitate complaint made in year 2011 through his Sister in Law Mrs. Santosh Devi which had been closed by the Board and communicated vide letter dated 25th October 2013.
- 5.5 The Complainant's allegation is that Respondent had entered into various financial transactions with the Complainant, but there is no allegation that Respondent was indebted to the Company of whom he was Auditor. The Applicable Guidance Note on Independence of Auditors is of 2005 and Code of Ethics applicable will be 10th edition January 2005. In Respondent's sincere personnel opinion there cannot be any contravention of Code of Ethics if any CA extend financial help to his client at the time of

need. Many times it is common practice that Chartered accountants continue to provide professional services to their clients in spite of non-receipt of fees for years in a row in a financial crunch. The complainant has not cited a single provision/ section of the Guidance Note or Code of Ethics which the Respondent had violated.

- 5.6 An FIR No 0538/2021 has been registered against the complainant No. 420/406/468/471/120-Bof IPC. The same has been registered on the order of Md. Asif Ali, J. of Rohini Court, passed under section 156/3 of CrPC, after appreciating all documents annexed in support of cheating, forgery and fabrication of forged share certificates by the complainant. The anticipatory bail application of the complainant has been dismissed by Ld. ASJ Rohini court as complainant is absconding and not joining investigation. The Ld. ACMM Tees Hazari had also issued summons to the complainant under section 202 of Company Act, 2013 for wrongfully withholding company property possession, theft of old records, statutory registers etc.

OBSERVATIONS OF THE BOARD:

- 6.1. On perusal of the documents and submissions on record, the Board observed that the Complainant has alleged that Respondent transferred the property owned by the Complainant in the name of his wife, Retention of Books/Income Tax Returns of the Complainant by the Respondent, threatening the Complainant to transfer his certain property in his name, illegally taking over the Company and cheating the Complainant by transferring his 97.84% shareholding to nil. The Complainant alleged that the Respondent has illegally taken over the Company of the Complainant namely Kempty Konstruktion Pvt. Ltd., having landed properties Worth in Crores, by forging his signatures/digital signatures and by misrepresentation to the Registrar of Companies.
- 6.2. With regard to the allegation of transfer of the property of the Complainant in the name of the wife of the Respondent, the Board observed that the Respondent has produced several documents along with his Written Statement, including the (i) General Power of Attorney dated 20th May, 2004 which was legally executed between the Complainant and Respondent's wife for the Shop on ground floor Measuring 123.75 Sq. Ft. in Roop Nagar, Sabzi Mandi, Delhi. (ii) Receipt dated 20th May, 2004 for the full and final payment of the above shop in consideration of Rs. 2,50,000/- executed between the Complainant and the Respondent's wife. (iii) Possession letter dated 20th May, 2004 executed between the Complainant and the Respondent's wife, handing over the possession of the above shop to the Respondent's wife. (iv) Lastly, the Complainant executed a Will in favour of the Respondent's wife declaring that during his life he shall live in the above property and after his demise the above property shall devolve in favour of Smt. Preeti Jain.
- 6.3. The Board noted that the Respondent further produced the MOU dated 24th September 2008 and Resignation letter of the Complainant dated 20th October 2008 in which the Complainant alleged that his signature on both the said documents were forged by the Respondent and the same are not his original signatures.
The Board perused the following contents of the said MOU:-



"This MOU is made on this 24th day of September, 2008 between Sh. Shiv Raj Singh S/o. Sh. Hukum Singh R/o 2/28, Roop Nagar, Delhi-7 and between Sh. Kamal Jain S/o Sh. D.C. Jain R/o 232, Sharda Niketan, Delhi-34. That Mr. Shiv Raj Singh as on this day owes to Sh. Kamal Jain a huge amount known to each one. In spite of the repeated requests of Mr. Kamal Jain, Sh. Shiv Raj Singh is not in a position to pay even the interest what to talk of the principal. So, Sh. Shiv Raj Singh on his own offered to transfer his shareholding in M/s. Kempty Konstructions Private Limited i.e., 998 equity shares to Sh. Kamal Jain and also agreed to appoint Sh. Kamal Jain as Director and after that he will resign from the directorship of the Company.

It is further agreed that Sh. Shiv Raj Singh will repay the whole amount along with interest due thereon to be decided mutually along with Sh. Sunil Kumar Aggarwal within one and half year of executing this MOU. It is further hereby agreed that if Sh. Shiv Raj Singh pays back the amount as agreed Sh. Kamal Jain will resign from the Directorship of the Company and will transfer back all shares to Sh. Shiv Raj Singh and he will be reappointed director of the company. In case the due compliance is not made within agreed time then Sh. Shiv Raj Singh will handover all the records of the Company including original title deed of land at Mussorie and all his right to get back shares and reappointment as director in the company will cease to exist & forego."

- 6.4 The Board observed that the Respondent also produced copy of the report dated 07.02.2014 of the Forensic Lab (Truth Labs) for the examination of the above MOU and Resignation letter in comparison to the Signatures present on GPA, Receipt of payment, Possession letter and Deed of Will, on the allegation of the Complainant that his signatures on the said documents had been forged. The Board noted that the report submitted by the above forensic lab, after the examination of the signatures present on MOU and Resignation letter in comparison with the above four documents, stated that signatures present on the MOU and Resignation letter and signatures present on the above four documents are of the same person.
- 6.5 The Board also noted that the National Company Law Tribunal (hereinafter referred to as "NCLT") has already decided or passed its judgment dated 10th July, 2017, wherein the Complainant is the "Petitioner" and the Respondent is the "Respondent", with regard to the issues or allegations regarding illegally removed as a Director of the Company and illegal takeover of the Company, the Complainant's shareholding being reduced from 97.84% to nil, etc., in favour of the Respondent brushing aside all allegations of Complainant.

The relevant portion of the judgment passed by the NCLT is reproduced below:-

"13. From the pleadings on record, documents relied, and upon hearing arguments addressed by the Ld. Counsels, this Bench is of the opinion that the resignation of the petitioner cannot be opined as being fraudulent.(Emphasis Added) His allegations of removal as a Director of the Respondent company are also without any legs to stand upon. Form 32 along with his resignation letter was duly uploaded with the ROC. It is the easiest of the allegations to deny a document as being forged or the digital signatures being misused by any other person. This has to be seen in conjunction with the other ancillary facts. There is

(Signature)

no denial to the execution of the MOU which clearly acknowledges money being received by the petitioner with the understanding that upon failure to return the loan, Respondent no. 2 would be entitled to transfer the same to himself. The petitioner has nowhere denied taking financial assistance, nor having executed the MOU. Further, he has not been able to show that he has failed to liquidate the loan. Under such circumstances, it cannot be said that the transfer of 998 shares was not for valuable consideration received. As per the Annual Return filed for the year 2007-2008, it has clearly been reflected that while Respondent no. 2 holds 998 shares, the petitioner's shareholding is "zero". This return bears the digital signatures of the petitioner as well as the Company Secretary, Shri A. K. Popli.

14. With respect to the appointment of Respondents 3 & 4 as Directors the petitioner has not been able to show that the same was done behind his back in an unauthorized and illegal manner, since the Annual Returns in Form 208 for the years ending 2006-2008 filed by him reflecting them as Directors was carried out under his signatures and their DIN was applied for in the form digitally signed by him. The appointment of Respondent no. 2 as a Director w.e.f., 25.09.2008 is as per the form digitally signed by the petitioner and the Company Secretary, Shri A K Popli. All forms 2015, 23A6/ACA & Form 32 have been filed by the petitioner.
15. Given the facts that the resignation of the petitioner as well as the appointment of the Respondents as a director is substantiated by the record of the MCA, there is no ground to rescind the same. The allegation that the digital signature has been misused is a mere overment demolished by the certificate of the Chartered Accountant who filed the returns on instructions of the petitioner. The appointment of the Respondents 2 to 4 as Directors was made in March 2005 while the present petition has been filed in the year 2011, corroborating the Respondent's submission that the differences arose when the petitioner dishonestly desired retransfer of the sale of two shops. There is no explanation to the execution of the demand promissory note and the issuance of the cheque in the sum of Rs. 80 lakhs to the Respondent no 2, all of which are corroborative and in compliance of the terms agreed in the MOU executed between the parties. **As there is substantial evidence in the form of public documents in respect of the transfer of shares and the appointment of Respondents as its directors, as also the resignation of the petitioner, this petition appears to be yet another coercive step against Respondent no. 2 for return of his properties(emphasis provided) i.e., the shops and the shares legally transferred for valuable consideration.** Under such circumstances the Respondents have been able to counter the allegations made by the petitioner with cogent defence.
16. We also find that the petitioner is guilty of "suppression veri", not having disclosed the execution of the MOU. He chose to falsely deny documents with a view of mislead the Bench as the Respondents have been able to show that even the fees to the Auditor for filing these documents was paid by none other than the petitioner from his personal account.
17. Not only is the certificate of the Auditor on record confirming the same. The Respondents have been able to co-relate the remittances to the Auditor from the personal account of

the petitioner. Therefore, in the light of documentary evidence, the allegations of the petitioner remain unsubstantiated.

18. *The allegations are self-serving with the view to cause harassment to the Respondent and to pressurise them to return properties legally conveyed."*

6.6 On being aggrieved with the above decision of the NCLT, the Complainant preferred an appeal to Hon'ble National Company Law Appellate Tribunal (hereinafter referred to as "NCLAT") in Company Appeal (AT) No.292 of 2017 against the Order of the NCLT dated 10th July, 2017. The NCLAT after conducting detailed hearing passed its judgment dated 06th October, 2017 and it also upheld the judgment passed by the NCLT. Subsequently, the Complainant approached the Hon'ble Supreme Court of India by way of Civil Appeal regarding the above allegations and the Hon'ble Supreme Court of India dismissed the same stating that we do not find any ground to interfere with the orders passed by the NCLT and NCLAT.

The relevant portion of the NCLAT judgment is reproduced below:-

- “6. *Having heard learned counsel for the parties, while we are not inclined to interfere with the impugned order dated 10th July, 2017 for the reasons recorded below, we are of the view that the matter relating to transfer of shares can be decided independently, uninfluenced by any observations made by Tribunal in the impugned order dated 10th July, 2017.*
7. *According, to appellant, the 2nd Respondent is not a member of the company. He is not a shareholder. He was the Chartered Accountant of the company who has illegally introduced and brought on the Board of Directors the 3 and 4th Respondents and taken various steps illegally oppressive to the members and the company. If the stand taken by the appellant that the 2nd respondent is not a member, the petition under Sections 397 and 398 (now Section 241 of the Companies Act, 2013) against the said Respondent is not maintainable. In so far as the question of legality and proprietary of share is concerned, we are of the view that such dispute cannot be decided in a petition under Sections 397 and 398 of the Companies Act, 1956. If the original shares are with the appellant and appropriate form of transfer has not been signed by him, or if signed, has lapsed, it is always open to the appellant to file an application separately under Section 59 of the Companies Act, 2013 for rectification of Register of Members by requesting the company to delete the name of 2nd or other Respondent(s), if recorded. In case of refusal, it was open to the appellant to move before the Tribunal against the order of refusal.*
8. *For the reasons aforesaid, while we are not inclined to interfere with the impugned order dated 10th July, 2017 passed by the Tribunal in Company Petition No. 104(ND)/2011, allow the appellant to file an application under section 59 of the Companies Act, 2013 before the company for deletion of the name of the persons whose names have been wrongly included the 3 and 40 Respondents. In such case, if the appellant prefers any application within three months before the company and the matter is not entertained or refused, it will be open to the appellant to move before the Tribunal against such order.*



On such petition, the Tribunal will consider the same on its merit after notice to the parties uninfluenced by the impugned order dated 10th July, 2017

9. *The appeal stands disposed of with the aforesaid observations and directions. No costs."*

In view of the above findings of the NCLT, Hon'ble NCLAT and the Hon'ble Supreme Court of India, the Board was of the view that it is clear that there is no merit in the allegations alleged against the Respondent.

6.7 The Board also noted that Respondent along with other alleged accused in the FIR no. 177/13 had been discharged by the Ld. Chief Metropolitan Magistrate, Rohini Court vide Order dated 17.08.2019 at the stage of framing of charges only as no material was available in the Charge Sheet to conduct the Trial on alleged accused persons.

6.8 With respect to the allegation of retention of Books/Income Tax Returns of the Complainant by the Respondent and threatening the Complainant, the Board noted that the same has not been substantiated by any direct or circumstantial evidences by the Complainant.

6.9 The Board also noted that the Complainant also raised new allegations against the Respondent during the course of proceedings but since the Respondent is afforded an opportunity to defend on the charges specified in Form 'I', there cannot be expansion of the charges at later stage of the disciplinary proceedings. Thus, the Board did not examine the conduct of the Respondent in respect of the fresh allegations raised by the Complainant against him.

6.10 Accordingly, the Board held the Respondent Not Guilty in respect of the charges alleged.

CONCLUSION:

7. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **NOT 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. Accordingly, the Board passed Order for closure of the case in terms of the provisions of Rule 15 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

Sd/-
CA. Prasanna Kumar D.
(Presiding Officer)

Sd/-
Ms. Dolly Chakrabarty (IAAS, retd.)
(Government Nominee)

Sd/-
CA. (Dr.) Raj Chawla
(Member)

DATE: 10-02-2023

सही प्रतिनिधि होने के लिए प्रमाणित
Certified to be true copy
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