



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

[PR/139/2020-DD/22/INF/2020/BOD/601/2022]

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 Re:-

CA. Abhay Batra, (M.No.520590), New Delhi

.....Respondent

[PPR/139/2020-DD/22/INF/2020/BOD/601/2022]

MEMBERS PRESENT (in person):

CA. Rajendra Kumar P., Presiding Officer

Ms. Dolly Chakrabarty (IAAS, retd.), Government Nominee

Date of Final Hearing: 17th March 2023

1. The Board of Discipline vide Findings dated 10th February 2023 was of the view that **CA. Abhay Batra (M.No.520590)** is Guilty of Professional Misconduct falling within the meaning of Item (11) of Part I of the 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. Abhay Batra** and communication dated 1st March 2023 was addressed to him thereby granting him an opportunity of being heard in person and/or to make written representation before the Board on 17th March 2023.
3. **CA. Abhay Batra** appeared before the Board through video conferencing on 17th March 2023 and made his oral representation thereat. He requested the Board to take a lenient view in the matter.
4. The Board has carefully gone through the facts of the case alongwith the oral representation of **CA. Abhay Batra**.
5. As per the Findings of the Board as contained in its report, it is evident that from 1st September 2011 to 1st October 2016 the Respondent held the Certificate of Practice while being in full time employment. Although, there is no evidence to indicate that he derived any monetary benefit out of holding the said Certificate of Practice while being in full time employment and with a slight alertness, he could have informed to the Institute about his employment and might have retained his Certificate of Practice with part time status, however, the fact remains that holding the Certificate of Practice while being

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in full time employment is a violation of the provisions of Regulation 190A of the Chartered Accountant Regulations, 1988 on the part of Respondent. Accordingly, **CA. Abhay Batra** was held Guilty of Professional Misconduct falling within the meaning of Item (11) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

6. Thus, upon consideration of the facts of the case, the consequent misconduct of **CA. Abhay Batra** and keeping in view his oral representation before it, the Board decided to **Reprimand CA. Abhay Batra (M.No.520590)**.

Sd/-

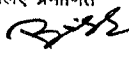
CA. Rajendra Kumar P.
(Presiding Officer)

Sd/-

Ms. Dolly Chakrabarty (IAAS, retd.)
(Government Nominee)

DATE:19th April 2023

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy


बिषा नाथ तिवारी / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

CONFIDENTIAL

BOARD OF DISCIPLINE

Constituted under Section 21A of the Chartered Accountants Act 1949

Findings under Rule 14(9) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

File No. : [PR/139/2020-DD/22/INF/2020/BOD/601/2022]

CORAM (present in person):

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

In RE:

CA. Abhay Batra, (M.No.520590), New Delhi
A-2, Ground Floor,
South Extension, Part-I
New Delhi-110049

.....Respondent

DATE OF FINAL HEARING : 23rd November, 2022
PLACE OF FINAL HEARING : New Delhi/through video conferencing

PARTIES PRESENT: (In Person)

Respondent : CA. Abhay Batra

FINDINGS:

BRIEF BACKGROUND OF THE CASE:

1. Shri Gaurav Deo Shah (hereinafter referred to as the 'Informant') was employed as an Assistant Manager with the Human Resource Department at Purple Panda Fashions Private Limited (hereinafter referred to as the 'Company') from 6th February 2015 to 26th January 2018. On consideration of the complaint received from a female employee relating to sexual harassment, action was taken against the Informant, and his services with the company were terminated. The Respondent had also been employed by the same company as Chief Financial Officer since 25th January 2015.

CHARGE ALLEGED:

- 2.1 The Informant alleged against the Respondent that he was in employment for a period of 5 years, i.e., from 2011 to 2016, with the Company while holding a full-time Certificate of Practice. To substantiate the same, he submitted a copy of the offer letter dated 18th November 2015 issued by the Company to the Respondent and a reply dated 13th Feb 2019 by ICAI to an online RTI application in which it is stated that the Respondent held a full-time Certificate of Practice since 01.09.2011 to 01.10.2016.
- 2.2 He further alleged that the Respondent was involvement in illegal activities such as forgery, fraud, cheating, cybercrime, hacking of phone or the internet, breach of privacy of others, posting of threats to people's lives, violation of the Minimum Wages Act, etc.

The Director(Discipline) held the Respondent prima Guilty of Professional Misconduct falling within the meaning of Item (11) of Part I of the First Schedule to the Chartered Accountant Act 1949 in respect of the charge specified at para 2.1 above and not guilty in respect of the charge specified at para 2.2 above. The said view had been accepted by the Board and accordingly, the conduct of the Respondent had been enquired into by the Board in respect of the charge specified at para 2.1 above only.

BRIEF OF PROCEEDINGS HELD:

3. At the time of the hearing held in the case on 23rd November 2022, the Respondent was present in person before the Board and was put on oath. Thereafter, the charges alleged against the Respondent were taken 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 before the Board. The Board posed certain questions to the Respondent which were replied to by him.

On consideration of the documents and submissions on record, the Board concluded the proceedings in the case with the direction to the Respondent to provide a notarised sworn Affidavit duly containing the submissions which have been made by him before the Board or any other submissions to defend on the charges alleged against him. Accordingly, the decision on the conduct of the Respondent was kept reserved by the Board.

4. Thereafter, in compliance with the direction of the Board, the Respondent vide communication dated 28th November 2022 filed an Affidavit.

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5. Thereafter, the Board on consideration of the submissions and documents thus on record, at its meeting held on 12th December 2022, decided on the conduct of the Respondent.

BRIEF SUBMISSIONS OF THE RESPONDENT:

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

- a) He has not been in practice (or ever have practised in the past) in his own name or as part of a firm of Chartered Accountants, or in any other way.
- b) He has not accepted any appointment as an auditor of any proprietorship, partnership, private or public limited company, or any other entity.
- c) He has not audited any entity/ given any opinion/ given any assurance in the capacity of a Chartered Accountant holding COP.
- d) He has not engaged any articled assistant, audit assistant or industrial trainee.
- e) He has not undertaken any certification assignment in the capacity of a Chartered Accountant in practice, or
- f) performed any other work that is generally associated with a Chartered Accountant in practice.
- g) He has not availed any benefit that entails holding of a Certificate of Practice (COP).
- h) It was a bona fide mistake, as no pecuniary or other benefit(s) was derived by him while inadvertently holding Certificate of Practice.

OBSERVATIONS OF THE BOARD:

7. On perusal of the documents and submissions on record, the Board noted that the Respondent accepted that he was holding Certificate of Practice in the early years of his membership i.e., from 01.09.2011 to 01.10.2016 which was not in any manner malafide but a bonafide mistake as he had not practiced in his own name or in the name of firm of Chartered Accountants or derived any pecuniary or other benefit(s) while inadvertently holding the Certificate of Practice. He regretted the same profusely and in an unqualified manner. He surrendered the Certificate of Practice in the year 2016.

8. The Board also noted that the Respondent admitted that he joined the company M/s Protiviti Consulting Private Limited (Protiviti) as Consultant (In-charge) w.e.f. 2nd January 2012, then M/s MMTC PAMP India Private Limited as Chief Accounting & Corporate Controller w.e.f.

17th October 2012 and subsequently joined M/s Purple Panda Fashions Private Limited as Chief Financial Officer w.e.f. 25th January 2016.

9. The Board also perused the membership file of the Respondent and noted that the Respondent filed Form-2 – Form of application for entry in the Register dated 25th July 2011 with the ICAI stating that he was a paid assistant in the firm M/s Batra Harish & Co. with effect from 1st August 2010 and paid the entrance fees along with the annual Membership and Certificate of Practice Fees for 2011-12. He became a Member of ICAI with effect from 1st September 2011 along with holding Certificate of Practice. Further, in Form-9 (Form of application for restoring the name in the Register) dated 9th December 2016 filed by the Respondent with ICAI it was mentioned that he was under employment with M/s Purple Panda Fashions Private Limited. Also, the Respondent selected the option “NO” at point 18 in the said Form, which asked whether the applicant intends to practice as a Chartered Accountant under the Chartered Accountants Act, 1949. However, the Respondent paid the membership fees along with the COP fees on 10th October 2016. He surrendered his Certificate of Practice with effect from 15th February 2018.
10. In this regard, the Board took into view Regulation 190A of Chartered Accountants Regulations, 1988, which deals with the provision for Chartered Accountants in practice not to engage in any other business or occupation, and the same reads as below:

“A Chartered Accountant in practice shall not engage in any business or occupation other than the profession of accountancy, except with the permission granted in accordance with a resolution of the Council”.

The permissible categories of engagements approved by the Council under Regulation 190A, are available in Appendix No. 9 to the Chartered Accountants Regulations, 1988 which provides as under:

(B) “Members of the Institute in practice may engage in the following categories of business or occupations, after obtaining the specific and prior approval of the Council in each case:-

- 1. Full time or part-time employment in business concerns provided that the member and/or his relatives do not hold substantial interest in such concerns.”*

Thus, it is evident that from 1st September 2011 to 1st October 2016 the Respondent held the Certificate of Practice while being in full time employment. Although, there is

no evidence to indicate that he derived any monetary benefit out of holding the said Certificate of Practice while being in full time employment and with a slight alertness, he could have informed to the Institute about his employment and might have retained his Certificate of Practice with part time status, however, the fact remains that holding the Certificate of Practice while being in full time employment is a violation of the provisions of Regulation 190A of the Chartered Accountant Regulations, 1988 on the part of Respondent. Accordingly, the Respondent is held Guilty in respect of the charge alleged.

CONCLUSION:

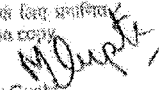
11. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (11) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

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

Sd/-
Ms. Dolly Chakrabarty (IAAS, ret'd.)
(Government Nominee)

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


DATE: 10-02-2023

सर्व प्रतिलिपि सत्य सही प्रमाणित
Certified to be true copy

श्री. सुनील / Meenu Gupta
सहायक निदेशक / Executive Officer
अर्थशास्त्र विभाग / Disciplinary Directorate
एन.ए.सी. ऑफिस, इण्डियन इन्स्टीट्यूट ऑफ चार्टर्ड अकाउंटन्ट्स ऑफ इंडिया
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