



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

[PR/69/14/DD/87/2014/BOD/407/2017]

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:-

Shri Dharmendra Nagawat,
Jaipur

.... Complainant

-Vs-

CA. Praveen Kumar Singhvi (M.No.070604),
Jaipur

.... Respondent

[PR/69/14/DD/87/2014/BOD/407/2017]

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. Praveen Kumar Singhvi (M. No.070604)** 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.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Praveen Kumar Singhvi** 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. Praveen Kumar Singhvi** made his written representation vide letter dated 10th March 2023 and also appeared before the Board through video conferencing on 17th March, 2023 and made his oral submissions thereat.
4. **CA. Praveen Kumar Singhvi**, in his written representation, inter-alia, stated as under:-
 - (i) The Complainant has failed to prove that he was associated with the Respondent in his professional capacity as there is absolutely no averment whatsoever regarding the same or regarding any aspect of professional fee or remuneration to be paid or ever paid by the Complainant. So, it is evident



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from the averments of the Complainant himself that there was no professional relationship of whatsoever nature between the Complainant and the Respondent.

- (ii) It is also falsely contented by the Complainant that the Respondent was dealing with the affairs of M/s. S.S. Builders. The complaint filed before the Hon'ble Board of Discipline is nothing but exact replica of FIR no. 447/2013 lodged before Police Station Ashok Nagar, Jaipur which has been filed by the Complainant (against the Respondent along with Mrs. Nisha Singhvi and Mr. Nimesh Singhvi) in which upon investigation, the concerned Police Station has filed a negative Final Report (concluding that no offence has been made out) and the said negative final report/closure report was duly submitted to the Competent Court of Law. The Complainant filed his objections/Protest Petition before the concerned Court and matter is pending investigation on limited aspects and the investigation is likely to conclude soon and on which count alone the instant complaint before the Hon'ble Board of Discipline is not maintainable and cannot be adjudicated on the issue of any purported misconduct and therefore it is requested that till the time investigation in the FIR no. 447/2013 is finally concluded by the concerned Police Station, the Hon'ble Board of Discipline may consider keeping this complaint in abeyance and not pass any final Order.
- (iii) The Complaint has been filed by one Mr. Dharmendra Nagawat whereas the purported transactions mentioned are done by Mrs. Indu Nagawat (wife of the Complainant) so the locus to file any complaint is only of Mrs. Indu Nagawat and the Complainant has no locus or authority whatsoever to file and contest the instant complaint before the Hon'ble Board of Discipline. The first complaint ever which was filed by Mr. Dharmendra Nagawat is dated 14.09.2013 wherein it has been categorically stated that a flat was booked with Mrs. Nisha Singhvi proprietress of M/s. S.S. Builders and advance was paid to Mrs. Nisha Singhvi of M/s. S.S. Builders, and the Complainant went to the house of Mrs. Nisha Singhvi of M/s. S.S. Builders and requested to give possession of the flat.
- (iv) In the statement (dated 16.11.2013) given by the Complainant to the Police also, the Complainant yet again stated that a flat was purportedly booked from Mrs. Nisha Singhvi, proprietor of M/s S.S. Builders. The Complainant has not mentioned as to which flat on which floor having how much area etc., was allegedly booked and what was the purported sale consideration and has made vague, ambiguous, and false averments that the total of Rs. 77.5 lacs were paid. However, it is a matter on record that only Rs. 22 lacs have been paid by Mrs. Indu Nagawat in the bank account of M/s. S.S. Builders meaning thereby a whopping amount of Rs. 55.5 lacs have been stated to be paid



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through cash for which also there is no evidence whatsoever because such amount has actually never been paid to Respondent at all which is quite evident from the fact that there is no evidence on record in this regard. One of the receipts annexed shows the receipt of cheque of Rs.30 lacs by Mrs. Indu Nagawat (wife of Complainant) wherein the Respondent signed as a witness. However, there is absolutely no document whatsoever on record which in any manner shows/signifies/proves that any cash amount was received by any person in presence of the Respondent or was ever given to the Respondent.

- (v) If at all there would have been any pinch of truth in the averments made by the Complainant then the entire amount of one-time settlement amount i.e. Rs. 43 lacs would have been paid instead of almost 50 percent of amount i.e. Rs. 22 lacs (as per the averment of the Complainant) which was stated to have been paid. There is not a single document like any email correspondence or letter or text message between the Complainant/ his wife with the Respondent regarding issue of settlement of loan or purchase of flat. The Respondent does not know Mr. Ganpat Lal Kumawat and never had any relation or association of whatsoever nature with him. The Respondent had absolutely no role whatsoever in the said Development Agreement. There has been no relationship as such between M/s. S.S. Builders and the Respondent. The Respondent at that point of time was engaged in his own CA practice which was being carried out from his office situated at Guttan House, Behind Khaitan Bhawan, M.I. Road, Jaipur-302001. The office of M/s. S.S. Builders was located several kilometers away and was situated at Second Floor, 15, Shivaji Marg, Diggi House, Jaipur-302004. The affairs of M/s. S.S. Builders at that point of time were looked after by Mrs. Nisha Singhvi along with her staff.
- (vi) The Respondent never signed any documents on behalf of M/s. S.S. Builders, never ever executed any agreement or sale deed on behalf of M/s. S.S. Builders which makes evident that the Respondent had no role in the day-to-day or routine affairs of M/s. S.S. Builders. The Hon'ble Board of Discipline has formed its view based on the Statement given by his wife and son to the police. However, those statements have no relevance because those are the Statement of other persons and not of the Respondent. Further, those statements have been recorded under Section 161 of Criminal Procedure Code which has no evidentiary value at all.
- (vii) The said Pamphlet/Advertisement which is stated to be of "Alaknanda Apartments" has never been published by M/s. S.S. Builders and has been forged by the Complainant. Further, the Respondent never gave any consent for his name to be published in any pamphlet/advertisement. The said (forged) pamphlet runs into four pages. There is absolutely no mention of the



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Respondent or his firm's name on the first three pages. The last (fourth) page is divided into two parts by a line which is drawn and divides two parts. The first part is the major part and covers almost 90% of the area whereas the second part covers the remaining 10% area. In the first part (covering 90% areas) all the description is of M/s S.S. Builders wherein the name of M/s S.S. Builders is written in bold and big font size along with the address i.e. 2nd Floor, 15, Shivaji Marg, Digg House, Behind Hotel Meru Palace, Jaipur - 302004 and also landline number i.e. 0141-2363968 and several mobile numbers. The Respondent never occupied the said premises. The other part (which is below the line drawn and is nearly covering 10% area) bears the name of three consultants namely (1) Financial consultant - P.K. Singhvi & Co., (2) Architects-SPACE-GRID, (3) Structural Consultants-Sunil Goyal are mentioned along with their phone number and addresses.

- (viii) The address and phone number of the Respondent's firm M/s P.K. Singhvi & Co. is different from the address of M/s. S.S. Builders. Hon'ble Board has mistakenly observed that the address of M/s. S.S. Builders is same as that of the residential address of the Respondent. However, it is a matter of record that the address of M/s. S.S. Builders is 2nd Floor, 15, Shivaji Marg, Digg House, Behind Hotel Meru Palace, Jaipur-302004 whereas the residential address of the Respondent is First Floor, 15, Shivaji Marg, Digg House, Behind Hotel Meru Palace, Jaipur-302004. The booking form or sale deed executed between M/s. S.S. Builders and Mr. Rameshwar Dayal Dadich does not bear the name of the Respondent. It would be just and appropriate to summon Mr. Rameshwar Dayal Dadich to ascertain the veracity of the affidavit purportedly given by him and permit the Respondent to cross examine Mr. Rameshwar Dayal Dadich as his affidavit is laced with a bundle of lies.
5. The Board has carefully gone through the facts of the case along with the oral and written representation of **CA. Praveen Kumar Singhvi**. As regard the plea of the Respondent raised in his representation that since the criminal proceeding on the same allegations is pending and investigation is likely to conclude soon, the Board of Discipline may consider keeping this complaint in abeyance and not pass any final Order, the Board viewed 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 commission of offence is required 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-



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General Manager (P.J) 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 of 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 was not inclined to accept the said plea of the Respondent. Further, as regards the plea of the Respondent to summon Mr. Rameshwar Dayal Dadich, the Board was of the view that hearing has already been concluded in the case and the said plea was never raised by the Respondent during the course of hearing before the Board. Thus, the Board was of the view that such plea is belated and hence not maintainable.

6. Further, as per the Findings of the Board as contained in its report, payment of Rs. 22 lakhs to M/s S.S. Builders by the Complainant was an undisputed fact. However, the bone of contention is the nature of such payment. The son and the wife of the Respondent in their Affidavits confirmed that consultancy services were provided by the Respondent and their firm M/s S.S. Builders to the Complainant and payment to the tune of Rs. 22 lakhs in the said context had been accounted for in the books of M/s S.S. Builders. However, the Respondent did not bring on record any documentary evidence to substantiate the nature of services rendered/material supplied in the said context. It is the case of the Complainant that the payment had been made by him to the Respondent for purchase of a flat in the Alaknanda Apartments being booked by M/s S.S. Builders. But he had neither been provided with the flat nor refund of the amount. The Board observed that although the



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Respondent did not had any direct ownership in M/s S.S. Builders. However, his association with M/s S.S. Builders as coming out from the documentary evidence like Statement of his wife and son, use of his mobile number in the pamphlet, Affidavit of a purchaser of a flat in Alaknanda Apartments booked by M/s S.S. Builders, etc. brought on record cannot be negated. Further, the Respondent did not provide any plausible justification for the accounting of the consultancy services provided by him in the books of M/s S.S. Builders as coming out in the Statement of his wife. In this regard, the Board observed that although the wife of the Respondent was the proprietor of the entity M/s S.S. Builders, however, the Respondent not only appeared to be the face behind the execution of all transactions in the name of the said entity, but, also did public dealings in the name of the said entity. The Board was of the view that being a Chartered Accountant, he should have ensured that the fine line between his personal and professional interests should have been maintained and he should not have acted in a manner which was detrimental to the interest of the others. Accordingly, the Board held the Respondent Guilty of "Other Misconduct" falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with section 22 of the said Act.

7. Thus, upon consideration of the facts of the case, the consequent misconduct of **CA. Praveen Kumar Singhvi** and Keeping in view his oral and written representation before it, **the Board decided to remove the name of CA. Praveen Kumar Singhvi (M. No.070604) from the Register of Members for a period of 15 (Fifteen) days and also imposed a fine of Rs.50,000/- (Rs. Fifty Thousand only) upon him.**

Sd/-

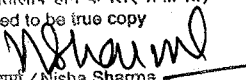
CA. Rajendra Kumar P.
(Presiding Officer)

Sd/-

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

DATE: 19th April 2023

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


निशा शर्मा / Nisha Sharma
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
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. : PR/69/14/DD/87/2014/BOD/407/2017

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 Dharmendra Nagawat,
B-492, Mahesh Nagar,
80, Feet Road,
Jaipur-302 015

...Complainant

-Vs.-

CA. Praveen Kumar Singhvi (M.No.070604)
Guttan House,
Behind Khetan Bhawan M.I. Rod,
Jaipur-302 001

...Respondent

DATE OF FINAL HEARING : 10th June, 2022
PLACE OF FINAL HEARING : New Delhi/ through video conferencing

PARTIES PRESENT(through video conferencing):

Complainant : Shri Dharmendra Nagawat
Respondent : CA. Praveen Kumar Singhvi

FINDINGS:

BACKGROUND OF THE CASE:-

A7

- 1.1 Being very close family relations between the Complainant and the Respondent, the Complainant and his family believed the Respondent's family who are engaged in the business of developers and builders. It was known to them very well that one of the residential House No. A-17 Mahesh Nagar, Jaipur which is the size of the plot is 311.11 sq. Yard, is in the name of Smt. Indu Nagawat, wife of the Complainant. The Bank loan was standing and therefore flats can be made thereon. Thus, the Respondent with his wife and son approached the Complainant and his wife for collaboration and development Agreement. They told that from the initial amount so received, the Respondent being the Auditor of various Banks and firms would arrange finance on the residential houses of the Complainant and would settle the loan amount on nominal amount if payment is made at once. After entering into collaboration with the builder they would get additional amount for repayment of loan and also additional flats for residential purpose in the same residential house due to which both their problems of living and loan will be solved. On believing the wordings of the Respondent, the Complainant and his wife became ready for doing Agreement with the builder. The Complainant and his wife went alongwith the Respondent to the Sangam Tower Branch of Citi Bank. The Respondent prepared for one time settlement of the loan and procured some letters on which he also made some noting at different places.
- 1.2 The Complainant met the builder Ganpatlal Kumawat through the Respondent and in every meeting with the builder, the Respondent was alongwith him. Though business of the Respondent too was of builders and construction but they showed inability of funds and got executed an Agreement of residential house of the wife of the Complainant with another builder Ganpatlalji on 27.09.2012 whereby it was agreed that builder would pay Rs.75,00,000/- as security and Rs.2,50,000/- for residence of the Complainant at other place in addition to rent and possession of the house will be given on 20.10.2012. Out of this, Rs.30,00,000/- in cash was given to the Complainant and his wife in presence of the Respondent on 27.09.2012 under pre-planned conspiracy. On the requests of the Respondent and through negotiations, talks for settlement were going on with the Bank wherein the Bank offered to settle the loan forever if payment of Rs.43,00,000/- is made at once which the Respondent told that he would settle it in Rs.40,00,000/- provided amount is paid at once and will also exempt various Bank charges, interest and four closure charges etc. On his influence being professional and complete assurance given by him, the Complainant and his wife immediately gave the said amount of Rs.30,00,000/- to the Respondent for making payment of the loan. They also demanded balance amount from the builder and the Respondent also stressed on it. In the meanwhile, the Complainant and wife of the Complainant shifted in the rented house at the present address on 16.10.2012 so as to give possession to the builder for construction.

- 1.3 Since it was well known to the Respondent that shortly much additional amount is to be received by the Complainant and his wife from the builder ,therefore, under a plan provoked the Complainant and his wife to invest in one flat out of flats constructed by the Respondent's wife in collaboration with S. S .Builders so that they may become owner of a good property and may earn more profit that too in cash and may use thereof for other purposes. Thus, taking into believe under the garb of old close relations they prepared the Complainant and his wife so that they may under pre-planned scheme may grab the money and cheat the Complainant.
- 1.4 The Respondent took undue advantage of being Chartered Accountant and kept the Complainant and his wife on false assurance to invest their money in property and earn best profit and make adjustments in the income tax etc. The Respondent always succeeded in taking money from the Complainant and his wife as and when they received the same from the builder. Two copies of the agreement with the builder was prepared and the Respondent kept a copy thereof with him for ready reference. The Complainant and his wife could not judge the conspiracy and in furtherance thereto, two cheques of Rs.15,00,000/- each totaling to Rs.30,00,000/- were given to the Complainant. In token of receipt, the Respondent also put his signatures at the back of the agreement. Amount of Rs.15,00,000/- and Rs.2,50,000/- was received on 07.11.2010 in furtherance to the agreement executed with the wife of the Complainant. The Respondent took the said entire amount too from the Complainant and his wife. Amount of Rs.30,00,000/- was given earlier and now Rs.17.50,000/- was given which was in excess to the settlement amount of Rs.40,00,000/- of the Bank as stated by the Respondent. Therefore, the Complainant requested to reduce it into writing on which the Respondent told that he would adjust the said excess amount against the price of the flat which is being given to them on very lower rate than the market rate and agreed to give AC, Furniture, Sofa set, Dining Table, Double Bed, Aqua Guard, Modular Kitchen etc. facilities in the flat to the Complainant and his wife. He also assured for agreement and told that they will save rent if flat is taken and also assured that after making payment of KACCHE KI RAKAM towards he will get cheque from the Complainant and his wife and assured them for purchasing stamp paper and executing agreement and by that time amount to be paid to Bank against loan will be safe with him.
- 1.5 Taking the Complainant and his wife into belief, the Respondent prepared an exhibitory Agreement in the name of M/s S.S. Builders of the Respondent's wife and called the Complainant and his wife at his office at Khaitan Bhawan, M.T. Road, Jaipur. Showing his busyness in the work of Income Tax Department, he assured of obtaining signature of his wife later. Since amount was received under agreement of property to the Complainant's wife, therefore for the formalities to be completed for income tax purposes he would give the agreement. The Complainant and his wife made complete belief on the Respondent. The Complainant time to time withdrew the amount in cash from the Bank Account which is in joint name of the Complainant

and his wife and paid the same with other charges in cash aggregate to Rs.8,00,000/- in the office and residence of the Respondent's wife and through cheque in the account of M/s S.S. Builders amount of Rs.5,00,000/- were transferred on 09.11.2012, Rs.7,00,000/- on 01.11.2012 and Rs.10,00,000/- on 19.01.2013 thus total amount of Rs.22,00,000/- were transferred from the joint account of the Complainant and his wife to the account of M/s S.S. Builders.

- 1.6 Thereafter, marriage of the Complainant's daughter was in February 2013 and as the Complainant and his wife were busy therein and entire payment was paid therefore they could not press more. But after marriage when the Complainant and his wife asked for giving possession of flat No.201 to M/s S.S. Builders, they always lingered on the pretext that some furniture and fittings work of the flat is incomplete and registry of the flat and settlement of the loan too is to take place shortly. In the meantime, the Respondent and his wife started conversations for marriage of their son with the daughter of brother in law of the Complainant due to which the Complainant remained in total belief and could not see that the Respondent was desirous to grab amount of some flats or flats itself so constructed in the residential house of wife of the Complainant. Since for unnecessary delay interest and other charges of the loan was increasing and they had to pay rent unnecessarily, the Complainant repeatedly requested for settlement of the loan to the Respondent on which they stated that their relations are going on for marriage of their son with the maternal niece of the wife of the Complainant and after token ceremony on 29.05.2013 engagement of their son with the maternal niece (daughter of brother of the wife of the Complainant) was solemnised and thus looking to relationship, the Complainant and his wife remained silent. After their engagement, due to illegal demand of money by the Respondent, the said relation came to an end in July 2013 and thereafter as and when request was made the Respondent always lingered on the matter on the pretext that it would take 2-4 days in completing the work and formalities of the loan.
- 1.7 Since loan was standing on the house of the wife of the Complainant for which collaboration was made with the builder and reference was given in the agreement executed with the builder therefore the Complainant and his wife had to suffer tension and mental agony and came under pressure for non-payment of huge loan amount. So they again requested the builder to purchase one flat out of their share of the flat and make payment thereof to them so that they may repay the loan. In consideration thereof they received Rs.42,50,000/- and additional amount Rs.1,50,000/- aggregating to Rs.44,00,000/- through cheque and paid the same to Kotak Mahindra Bank which took over the loan of Citi Bank. As such, the loan which was earlier settling in Rs.43,00,000, the Complainant had to pay Rs.44,00,000/- means had to suffer loss of Rs.1,00,000/- due to the Respondent and besides selling of the flat at lower rate than the market rate to the builder. Despite thereof, the Respondent always lingered on the matter of refunding the loan amount of the wife

- of the Complainant as kept in security and also possession of the flat for one reason or another.
- 1.8 In the second week of September 2013, the Complainant visited Alaknanda Apartment, Padmawati Colony Kings Road, Jaipur of M/s S.S. Builders and it came to his knowledge that flat is complete with all construction and fittings but dispute for money is going on between the Respondent's family and land owners Yamuna Prasad and Deepak Srivastava and it has been told by them to the Respondent that only upon receipt of balance amount they will sign registry or give consent for electricity connection etc.
- 1.9 When this fact came to the knowledge of the Complainant, he alongwith his wife went to the house of the Respondent's family on 14.09.2013 at 15, Shivaji Marg, Diggi House, Jaipur. The Complainant and his wife were asked about reason for visiting and requested for handing over the possession or refunding of the amount else for taking legal action was made by the Complainant. Then the Respondent's family at the outside of their house not only talked in abusive language but also beaten them with fist -kick and they also laughed in succeeding their conspiracy and openly threatened that the Complainant and his wife cannot take any step against them and if so is done then the Respondent will in turn implicate the Complainant and his wife in so many false cases so that they will escape counting thereof. The Respondent stated that he has approached to high level Income Tax Officials and other higher officials and miscreants and if any action is taken against them then they will lift the family of the Complainant or will murder them.
- 1.10 Thereafter, the Complainant and his wife took medical treatment in the hospital for the injuries and also reported the incident to Police Station Ashok Nagar on 14.09.2013. The Police concerned kept the report with them but did not take any action till today nor register any First Information Report due to which the Complainant was constrained to file the complaint before the Court.
- 1.11 The Respondent and his family received money from the Complainant and his wife under a pre-planned conspiracy in the name of repayment of loan and giving of flat as receiving of money from the builder well known to them and thus the Respondent and his family cheated the Complainant and his wife. They were never intended to repay the loan and give possession of the flat to the Complainant and grabbed the loan amount of the Complainant and his wife.

CHARGE ALLEGED:

2. The Respondent and his family members have received money from the Complainant and his wife under a pre-planned conspiracy in the name of repayment of loan and giving of flat through a builder well known to them. Thus, the Respondent and his family cheated the Complainant and his wife.

As

BRIEF OF PROCEEDINGS HELD:

- 3.1 During the hearing held in the case on 3rd January 2022, the Board noted that the Complainant and the Respondent were present before it through video conferencing. The Board noted that at the time of last hearing in the case on 20th December 2021, it had directed the parties to the case to provide the following information/ documents:

The Complainant:

- (a) To submit the copy of the Collaboration Deed duly signed by the Respondent at the back in token of having witnessed the payment of Rs. 15 lakhs in cash alongwith other payment via cheque to the Complainant.

The Respondent:

- (a) The nature of services rendered by M/s S.S. Builders to the Complainant.
(b) The accounting treatment given by M/s S.S. Builders in its books of accounts for the Financial Year 2012-13 in respect of Rs. 22 lakh received from the Complainant.

The Board noted that the Complainant had submitted the documents called for from him. Further, the Respondent made his submissions on the aforesaid issues. The Respondent was examined by the Board. The Complainant and the Respondent made their respective submissions before the Board. On consideration of the documents and submissions on record, the Board decided to conclude the proceedings in the case with the direction to the Complainant to provide the copy of FIR, Closure Report and the Order of the Court for reopening of the investigation with a copy to the other party to the case to provide his comments thereon, if any. Accordingly, the decision on the conduct of the Respondent was reserved by the Board.

In compliance of above directions, the Complainant vide its email dated 23rd January, 2022 submitted the above said information and the same was sent to the Respondent for his comment thereon, if any. The Complainant vide his email dated 28th January 2022 also submitted the copy of Order dated 15/12/2021 passed in his case directing re-investigation. The Respondent did not provide his comments/ response thereon.

- 3.2 Thereafter, the Board at its meeting held on 09th February, 2022 while considering the further submissions/documents received in the case together with the earlier submissions/documents on record observed that FIR no. 346/2013 filed against the Respondent amongst others, had been closed by the police. Thereafter, a Complaint was made by the Complainant before the District Court Magistrate, Jaipur to further investigate the case vide letter dated 23rd March, 2015. The District Court Jaipur in



its Order dated 15th December 2021 asked the Police to investigate the case on issues mentioned by the Complainant in letter dated 23.03.2015 and to submit its report to the Court within 1 month. Since the subject matter before the Court was largely the same, the Board was of the view that in the interest of justice, another opportunity should be given to both the parties to the case, to give another opportunity to present their case before the Board, as the Board could not arrive at a decision on the conduct of the Respondent based on submissions and documents on record. Thus, the Board decided to re-open the case for hearing.

- 3.3 Accordingly, an opportunity was given to both the Complainant and the Respondent to present their case before the Board on 10th June 2022 wherein both the Complainant and the Respondent were present before it through video conferencing. The Respondent was examined by the Board. On consideration of the documents and submissions on record, the Board concluded the proceedings in the case.

SUBMISSIONS OF THE PARTIES TO THE CASE:

RESPONDENT:

- 4.1 The genesis of the complaint is based on Respondent son's refusal to marry the daughter of the Complainant, instead marrying his maternal niece (brother in law's daughter) on 17th Nov 2013. The Complainant and his wife raised every possible ugly allegation and obstacle so as to prevent marriage being solemnized. Despite the fact that marriage was finalised to be solemnized the Complainant wrote that the relation has come to an end for illegal demand of money. There was no demand of money and the simple yet dignified marriage ceremony took place in temple with deep sense of mutual respect and affection. This fact of genesis is reinforced when the Complainant took nearly 1.5 years to file the complaint before ICAI (19/03/2014) despite the fact that if there would have been any wrong intents on Respondent's part then he ought to have reported the matter before ICAI in later part of 2012 or early part of 2013 itself. But all his complaints to any authority including ICAI were synchronized with the progress of marriage preparations of Respondent's son and it being solemnized. Perhaps, it came as a bitter surprise to Complainant and his wife that how this marriage took place and being sustained with healthy mutual relations.
- 4.2 It's a fact that Complainant kept on raising allegations against the Respondent and his family but never supported them with relevant documentary evidences and witnesses as the case may be. If the Complainant happens to be the innocent person then how come multiple financial institutions have declared him as defaulter and several cases u/s 138 of NI Act are registered against the Complainant.

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Moreover the Complainant was arrested by PS. Mahesh Nagar, Jaipur when a complaint against him was lodged by Kotak Mahindra Bank towards defaulting in making repayment of personal loan. The Complainant and his family was habitual of taking loans from banks/other financial institutions/friends/relatives and when it comes to repay they default on most occasions. As per the discussions held with M/s SS Builder (builder firm) to whom payment of Rs 5 lacs, 7 lacs and 10 lacs (total Rs.22 lacs) were made are on account of various services and works which were sought by the Complainant through the builder firm directly or indirectly for many years in course of their association with promises of payments as per their understanding.

4.3 The residential house purchased by the Complainant in 2009/10 did not had adequate infrastructure for his family to reside (as the premises till then was used for printing press business). At that time the builder firm had a team of service providers so alongside the consultancy towards viable and best possible renovation, the building material/goods, furniture was also provided to the Complainant. Moreover, the Complainant wanted to sell some other property for which work pertaining to Government Departments (JDA/JMC) and other relevant Departments was sought in addition to marketing services. The Complainant perhaps wanted to strike the best deal with regard to buying and selling of properties and/or development of properties, approached the builder firm which used its resources, consulted property brokers, held multiple meetings/discussions and consultations with various developers and such other individual firms. In all the above cases the cost was borne by the builder firm. Even when the Complainant daughter's marriage was finalized ad hoc financial assistance was provided to the Complainant family. This is the reason that they gave Respondent and his family's name in special compliments in the wedding card of their younger daughter. For all these works and such other scattered works to Complainant being satisfied, he willingly paid acknowledging that he owes it.

4.4 The Complainant's baseless allegations along with his delay in filing both the complaint general and rejoinder thereafter in particular exhibits that the Complainant motive is mischievous and malafide. The Complainant wrote about the court case against the Respondent, surprising even after more than 4-5 years no such case has yet come to his knowledge. The Complainant had pre planned it to bring the matter to this forum to damage the Respondent's long established (nearly 37 years in practice as CA) professional and social reputation.

COMPLAINANT:

5.1 The Respondent has mentioned wrong, baseless and irrelevant facts. The Complainant lodged the complaint before ICAI after making every possible effort in recovering the money from the Respondent.

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- 5.2 The Complainant was having good relations with the Respondent since 2007. When the Complainant faced any problem, he discussed the same with the Respondent. When the Respondent got any problem, the Complainant stood by him. The Complainant being innocent believed the Respondent at every point and gave huge amount of Rs. 77.5 Lakhs for repayment of the loan due to the Complainant as the Respondent had contacts in the bank to which the loan is due so that the loan would be repaid easily, and rest of the amount would be invested in the flat built by M/s S.S. Builders. The Respondent made contact with the Complainant with intent to cheat and deceive the Complainant and commit fraud with him.
- 5.3 The police has only proposed F.R. which is not the final outcome of the case. The FR has been submitted as the Complainant is innocent person and the police officials illegally demanded the sum of money to file Charge Sheet. When the Complainant was not able to pay the sum demanded illegally, the Police submitted F.R. before the Learned Trial Court. Even today the learned Trial Court has not accepted the F.R. and is hearing the case upon protest petition filed by the Complainant.
- 5.4 The fact of arrest of the Complainant for not repaying the loan is false and baseless and has no relevance to the present case before the forum. The Respondent is not willing to repay the amount taken and is intentionally cheating and defrauding the Complainant.
- 5.5 The amount of Rs. 5 lakh Rs. 7 Lakhs, Rs. 10 Lakhs were transferred in account of M/s S.S. Builders for the flat vide cheque dated 09-11-2012, 01-11-2012, 19-01-2013 respectively as per the statement. The Respondent is Financial Consultant in M/s S.S. Builders as per the brochure of M/s S.S. Builders. The Respondent forced the Complainant to invest in the apartment with ulterior motive of cheating and deceiving the Complainant by taking money as a consideration for the flat. Due to good relation the Complainant agreed to invest in the apartment. It has been wrongly mentioned that the amount given by the Complainant was for consultation with various developers. Mere mentioning the fact of consultation fees does not prove that it was given as consultation fees, no documentary evidence has been produced by the Respondent in consonance to the Consultation fees. As the Complainant and the Respondent had good relations, so name of the Respondent was mentioned in the Marriage Card of the daughter of Complainant.
- 5.6 It is clear from the Bank Account Statement of the Complainant that the amount of 22 Lakhs as mentioned above was withdrawn vide cheques mentioned above.



- 5.7 The complaint was lodged after making every possible effort to recover the money due from the Respondent as the complainant had very good relations with the Respondent, and the Complainant did not want to hamper the relations. But when the Complainant went to the house of the Respondent, he and his family members abused the Complainant and his wife on the road itself, and beat the Complainant. The words used by the Respondent were very bad which the Complainant cannot say before the forum. The said incident made the Complainant to approach police and Court of law.
- 5.8 The Respondent misused his profession with intent to commit fraud, cheating upon the Complainant by giving false promises of repayment of loan and investment of the rest in the flat built by M/S S.S. Builders.
- 5.9 The statement recorded under 161 CrPC of Mrs. Nisha Singhvi w/o CA. Praveen Singhvi herself states that she is the proprietor of the Firm SS Builder and also admitted that the amount of Rs. 22 lakh has been given to the firm and the cheques have been cleared in the bank account of the firm. She herself stated that all the work pertaining to the firm is handled by her husband. Mrs. Nisha Singhvi also stated that the amount of Rs. 22 lakh was given for the consultancy services. There is no such explanation that what type of consultancy is given to the Complainant by the Respondent in the statements of Nisha Singhvi. Therefore, it has been clearly admitted that Rs. 22 lakh except the amount taken in cash has been taken by M/s S.S. Builder Firm and with malafide intentions had cheated the Complainant for getting the amount of Approx. Rs. 77.5 Lakhs (including the cash also).
- 5.10 After perusal of the statement under 161 Crpc of Mr. Nimesh Singhvi s/o Praveen Singhvi it is submitted that he himself admitted the fact that as he has business of educational courses and teaching for which Mr. Nimesh Singhvi has printed materials for the purpose of the business, from the Complainant. For that Complainant has not charged any fees or amount to be given to him as they had good relations. Mr. Nimesh has stated that the Firm is wholly managed by his father. As per the statements it is submitted that when the complainant gave the house to a builder (Chotu Kumawat) for construction of the house and they had approach to JDA and for the aforesaid approach the consultancy fees 22 lakhs have been charged. The Respondent has not shown any receipt or any clarification that what type of consultancy was given for such huge amount.
- 5.11 It is also clarified by the statement of Nimesh Singhvi that all the transactions amount of Rs. 22 lakh was in the bank account of M/s S.S. Builders. No clarification has been given that what consultancy has been given by JDA and why the amount was transferred in the bank account of SS Builders. The Collaboration and

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Development Agreement was executed between the builder of the plot of the Complainant and Complainant's wife, here there is no involvement of M/s S.S. Builders. In Para 5 of the Agreement, it is clear that all the expenses pertaining to Nigam or any other entity would be clear by the Complainant's wife before handling the physical possession and after giving the possession to the builder all the liability is upon him and no connection or liability is of Complainant.

5.12 M/s S.S. Builders has only one venture i.e. Alaknanda Apartment, there is no other venture of M/s S.S. Builders. If the Respondent is claiming that consultancy of Rs. 22 lakh was given to the Complainant then why the point of said consultancy was not involved in the first reply given by the Respondent dated 07.07.2014. After delay of approx. 4 years the claim of consultancy has come before the Board. The delay has not been explained by the Respondent.

5.13 The Complainant also submitted the affidavits of One/two witnesses who clarified that the Complainant given the amount for Flat in Alaknanda Apartment to the Respondent.

OBSERVATIONS OF THE BOARD:

6.1 Upon overall examination of the facts of the case and documents brought on record, the Board noted that a Collaboration and Development Agreement dated 27th September 2012 had been executed between the Complainant's wife (in the capacity of the owner of plot which was under mortgage with a bank) and a developer named Mr. Ganpat Lal for the development of a building on her plot therein on the following terms and conditions:

(a) payment of Rs. 75 lakhs to the Complainant's wife. Out of which Rs. 30 Lakh had been given in cash to her on 27th September 2012 itself and the balance Rs. 45 Lakh shall be paid before 31st October 2012 to the Complainant's wife.

(b) the possession of the plot will be given to the developer on/or before 20th October 2012 for the purpose of construction on the same.

(c) After the sale of the second floor on this plot, the Complainant's wife shall handover Rs. 45 Lakh to the developer.

(d) After the construction on the building and upon getting the possession of her portion, the Complainant's wife shall handover the balance Rs. 30 Lakh to the developer.

(e) The entire cost of construction shall be borne by the developer.

(f) Both the Complainant's wife and the developer will have 50 % share each in the constructed property.

The Board also noted that payment of Rs. 30 Lakh to the Complainant's wife was witnessed by the Respondent and he signed in token of having witnessed the same.

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- 6.2 The Board further noted that an Acceptance letter dated 21st August 2013 executed between the Complainant's wife and a developer named Mr. Ganpat Lal had been brought on record by the Complainant wherein the Complainant's wife transferred one unit namely G2 on the ground floor of the building to the developer for a consideration of Rs. 44 Lakhs out of which Rs 1.50 Lakhs will be returned by her to the developer.
- 6.3 The Board also noted that the Complainant brought on record copy of the No Dues Certificate dated 23rd September 2013 issued by M/s Kotak Mahindra bank to him stating that full settlement amount of Rs. 44 lakhs in respect of his loan had been received.
- 6.4 The Board further noted that the conduct of the Respondent in the case has to be examined vis-à-vis his role in the entity M/s S.S. Builders which was the proprietorship concern of the Respondent's wife.
- 6.5 The Board also noted that the Complainant brought on record copy of a Certificate dated 28.11.2013 issued by The Rajasthan State Co-Operative Bank Ltd. wherein amount of Rs. 22,00,000/- have been shown as paid to M/s S.S. Builders during November 2012 to January 2013 from the Joint Bank account of the Complainant and his wife.
- 6.6 The Board further took into view the following as provided in the Statement dated 14th September 2013 given under section 161 of CrpC, by the Respondent's son, Sh. Nimesh Singhvi:

"We know Shri Dharmendra Nagawat r/o B- 492, 80 feet road, Mahesh Nagar since 2007. He is engaged in the job of offset printing. He took loan from different bank when my father provided him consultancy service. Thereafter, he demolished his house and handed over the same for construction of residential complex and for which purpose we had approached to JDA on his behalf. We had provided him consultancy services for which he paid Rs.22.00 Lac through different cheques in the last one year in the name of our firm M/s. S.S. Builders."

The Board also took into view the following as provided in the Statement dated 2nd October 2013 given under section 161 of CrpC, by the Respondent's wife Smt. Nisha Singhvi:

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"My husband is CA. and resided with me. We have a firm in the name of S.S. Builders, Dharmendra Nagawat used to come since last 6-7 years with my husband for consultancy. In last one year they have issued cheque of 22.00 Lac in the name of my firm. All the cheque (s) are cleared in the account of my firm. The aforesaid cheques have been given on account of consultancy rendered by my husband and our firm S.S. Builders."

- 6.7 On being questioned by the Board during the enquiry as regards payment of Rs. 22 Lakhs by the Complainant to M/s S.S. Builders, the Respondent stated that as informed by M/s S.S. Builders, the said payment was for the services and goods supplied by M/s S.S. Builders to the Complainant. However, the Complainant stated that he had given his plot to a developer under an Agreement to construct the house on the same. There was no purpose for which he would require any material or goods. All the transactions were in the presence of the Respondent and he did not had any conversation with his wife in respect of the entity M/s S.S. Builders. He made payment to the Respondent for the purchase of the flat but, he neither received the flat nor the refund of the amount paid.
- 6.8 On being asked by the Board to provide documentary evidences to substantiate the nature and payment of Rs. 22 Lakhs by the Complainant to the entity M/s S.S. Builders, the Respondent stated that the entity could not provide the same to the Respondent as there was a theft in their premises in the year 2014 for which a FIR had also been lodged. He also stated that although the Income Tax return had been filed and the business transactions were there like consultancy services, repair and maintenance work but new construction work did not take place since 2009. Also, the entity did not provide the copy of the Income Tax Return filed by them. Thus, the Board observed that the Respondent failed to bring on record any requisite documentary evidence to substantiate that the said amount had been received by the entity in lieu of services rendered/material supplied to the Complainant.
- 6.9 The Board also observed that FIR no. 346/2013 filed against the Respondent amongst others, had been closed by the police. Thereafter, a Complaint was made by the Complainant before the District Court Magistrate, Jaipur to further investigate the case vide letter dated 23rd March, 2015. The District Court Jaipur in its Order dated 15th December 2021 asked the Police to investigate the case on issues mentioned by the Complainant in letter dated 23.03.2015 and to submit its report to the Court within 1 month. However, till the conclusion of the instant proceedings the report was not brought on record and the case was still pending before the concerned Judicial Authority.
- 6.10 The Board also noted that the Complainant brought on record a Sale Agreement dated 1st July 2010 executed between M/s S.S. Builders through the Respondent's wife along with one another party and Mr. Rameshwar Dayal Dadhich for sale of flat no. 102 in Alaknanda Apartments to him for a consideration of Rs. 24 Lakhs. The

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Complainant also brought on record an Affidavit dated 28th August 2019 of the said Mr. Rameshwar Dayal Dadhich who purchased a flat in Alaknanda Apartments from M/s S.S. Builders stating that the Respondent is a financial consultant of the firm M/s S.S. Builders which is under the proprietorship of his wife. The financial dealing in respect of the flats is undertaken by the Respondent. The Respondent is responsible for the overall maintenance of Alaknanda Apartments and M/s S.S. Builders. He had also purchased a flat in the said apartment for which money was handed over to the Respondent in his office. He further stated that the Complainant also purchased a flat in the said apartment for which money was handed over to the Respondent. However, neither the flat was allotted to the Complainant nor money was returned to him.

In the said context, during the course of enquiry, the Board noted that the Respondent took the plea that the flat was purchased by Mr. Rameshwar Dayal Dadhich for which the payment was made to M/s S.S. Builders only. M/s S.S. Builders was the client of the Respondent and he charged the said entity for the services rendered to it. He also confirmed that he did not work on behalf of the said entity. However, he did not bring on record any documentary evidence to substantiate the nature of services rendered by him to the said entity and its' accounting thereof in its books.

- 6.11 The Board thus observed that payment of Rs. 22 lakhs to M/s S.S. Builders by the Complainant is an undisputed fact. However, the bone of contention is the nature of such payment. The son and the wife of the Respondent in their Affidavits confirmed that consultancy services were provided by the Respondent and their firm M/s S.S. Builders to the Complainant and payment to the tune of Rs. 22 lakhs in the said context had been accounted for in the books of M/s S.S. Builders. However, the Respondent did not bring on record any documentary evidence to substantiate the nature of services rendered/material supplied in the said context. It is the case of the Complainant that the payment had been made by him to the Respondent for purchase of a flat in the Alaknanda Apartments being booked by M/s S.S. Builders. But, he had neither been provided with the flat nor refund of the amount. The Board observed that although the Respondent did not had any direct ownership in M/s S.S. Builders. However, his association with M/s S.S. Builders as coming out from the documentary evidences like Statement of his wife and son, use of his mobile number in the pamphlet, Affidavit of a purchaser of a flat in Alaknanda Apartments booked by M/s S.S. Builders, etc. brought on record cannot be negated. Further, the Respondent did not provide any plausible justification for the accounting of the consultancy services provided by him in the books of M/s S.S. Builders as coming out in the Statement of his wife.
- 6.12 In this regard, the Board observed that although the wife of the Respondent was the proprietor of the entity M/s S.S. Builders, however, the Respondent not only appeared to be the face behind the execution of all transactions in the name of the



said entity, but, also did public dealings in the name of the said entity. The Board was of the view that being a Chartered Accountant, he should have ensured that the fine line between his personal and professional interests should have been maintained and he should not have acted in a manner which was detrimental to the interest of the others. The conduct of the Respondent in the circumstances narrated above is clearly questionable and has certainly brought disrepute to the profession. Accordingly, the Board held the Respondent guilty in respect of the charge alleged.

CONCLUSION:

7. 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)

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

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

DATE: 10th February 2023

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



अरुण कुमार / Arun Kumar

कार्यकारी अधिकारी / Executive Officer

अनुशासनात्मक निदेशालय / Disciplinary Directorate

इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया

The Institute of Chartered Accountants of India

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