

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2022-2023)]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(7) and 18(8) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

File No. : [PR/389/19-DD/345/19-DC/1465/2021]

In the matter of:

CA. Sanjay Goel (M. No. 070981)

Goel Bhawan, R Road

Bistupur,

JAMSHEDPUR - 831 001

.....Complainant

Versus

CA. Rahul Kumar Agarwal (M. No. 310334)

2nd Floor, Kailash Tower,

Station Road, Jugsalai,

JAMSHEDPUR - 831 006

.....Respondent

MEMBERS PRESENT:

1. **Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee and Presiding Officer**
(Present in person)
2. **Shri Arun Kumar, I.A.S. (Retd.), Government Nominee** (Present in person)
3. **CA. Rajendra Kumar P, Member** (Through Video-Conferencing Mode)
4. **CA. Cotha S Srinivas, Member** (Present in person)

DATE OF MEETING : 07.12.2022 (Through Physical/ Video Conferencing Mode)

PARTIES PRESENT :

Respondent: CA. Rahul Kumar Agarwal (Through Video- conferencing mode)

CHARGES IN BRIEF:-

1. The Committee noted that in the present case, the Director (Discipline) had held the Respondent Prima-facie Guilty of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 on the charge that the Respondent accepted the tax audit of the Firm (i.e. M/s Rani Sati Plastic Manufacturing Co.) for the F.Y. 2018-19 without communicating with the Complainant, who was the previous tax auditor of the firm, and also accepted the audit despite the fact that the Audit fees of the Complainant was pending.

BRIEF FACTS OF THE PROCEEDINGS:

2. On the day of the hearing held on 07th December 2022, the Committee noted that the Complainant was not present despite notice duly served upon him. The Respondent was present through Video Conferencing mode. Since this was the first hearing of the matter, the Respondent was put on oath. The Committee, as per Rule 18(7), asked the Respondent whether he was aware of the charges; the Respondent stated that he was aware of the charges. On being asked whether he pleaded guilty or not, he pleaded guilty and accepted the charges against him.
3. The Committee noted that he further apprised that the Complainant, in the instant matter, had submitted a withdrawal letter dated 23rd August 2021. The Committee noted that the Complainant, in that letter, had stated that the Respondent had tendered apologies to him, and accordingly, he had accepted the same and wished to withdraw the instant complaint against the Respondent. The Committee noted that the said withdrawal was considered by the erstwhile Disciplinary Committee in its meeting held on 30th September 2021 and the Disciplinary Committee, on consideration of the facts, did not accept the withdrawal of the Complainant.
4. After considering all papers available on record and after recording the submissions of the Respondent, the Committee decided to conclude the matter.



FINDINGS OF THE COMMITTEE

5. The Committee noted that the Respondent, with regard to the charges against him, had accepted his guilt before it. The Committee noted that the Respondent, while accepting the charges, pleaded that the lapse was unintentional, and he relied upon the client, who informed him that there had been no audit in the previous year. He further admitted that due to oversight, he could not detect the previous auditor, as the previous auditor's fee in the books was clubbed with sundry creditors.

6. The Committee noted that the Respondent had accepted to have contravened the Code of Ethics issued by the ICAI. The Committee, looking into the Respondent's acceptance of guilt under the provisions of Rule 18(8), recorded his plea and accordingly held him guilty.

CONCLUSION

7. In view of the above, the Committee recorded in terms of provision of Rule 18(8) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 recoded the acceptance of the guilt by the Respondent and accordingly hold him **GUILTY** of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-
(MRS. RANI NAIR, I.R.S. RETD.)
GOVERNMENT NOMINEE & PRESIDING OFFICER

Sd/-
(SHRI ARUN KUMAR, I.A.S. RETD.)
GOVERNMENT NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

Sd/-
(CA. COTHA S SRINIVAS)
MEMBER

DATE: 16.01.2023
PLACE: NEW DELHI

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy
MOHIT KUMAR
मोहित कुमार / MOHIT KUMAR
कार्यकारी अधिकारी / Executive Officer
अनुशासनसम्बन्धित विभाग / Disciplinary Directorate
भारतीय सन्दी लेखाकार संस्थान
The Institute of Chartered Accountants of India
भारतीय सन्दी लेखाकार संस्थान, दिल्ली-110032



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

[PR/389/2019/DD/345/2019/DC/1465/2021]

ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.

[PR/389/2019/DD/345/2019/DC/1465/2021]

In the matter of:

CA. Sanjay Goel (M. No. 070981)

Goel Bhawan, R Road

Bistupur,

Jamshedpur,

JAMSHEDPUR - 831 001

.....Complainant

Versus

CA. Rahul Kumar Agarwal (M. No. 310334)

Hindustan Building,

Chowk Bazar, Jugsalai

JAMSHEDPUR - 832 006

.....Respondent

MEMBERS PRESENT:

1. **CA. Ranjeet Kumar Agarwal, Presiding Officer** (Present in person)
2. **Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee** (Present in person)
3. **Shri Arun Kumar, I.A.S. (Retd.), Government Nominee** (Present in person)
4. **CA. Sanjay Kumar Agarwal, Member** (Present in person)
5. **CA. Sridhar Muppala, Member** (Present in person)

DATE OF MEETING : 16.03.2023 (Through Physical/ Video Conferencing Mode)

1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, dated 16th January 2023, the Disciplinary Committee was inter-alia of the opinion that **CA. Rahul Kumar Agarwal (M. No. 310334)**, (hereinafter referred to as the **Respondent**"), was **GUILTY** of professional misconduct falling within the meaning of Item (8) of Part I of the First Schedule and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

2. The Committee noted that the charge against the Respondent was that the Respondent did not communicate with the Complainant, being the previous tax auditor, of the Firm (i.e. M/s Rani Sati Plastic Manufacturing Co.) before accepting this audit, and the Audit fees of the Complainant from the Firm for F.Y 2017-18 was also pending.



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3. The Committee noted that the Respondent was not present. The Committee noted that the Respondent, vide his email dated 4th March 2023, had submitted that the Complainant, in the past, requested the Committee to withdraw the complaint against the Respondent. He further submitted that the outstanding fees relating to the Complainant were duly paid. He, accordingly, requested the Committee to take a lenient view in the matter.

4. The Committee in the absence of any adjournment sought by the Respondent, decided to proceed with this case ex-parte and accordingly consider the above submissions of the Respondent on record. The Committee noted that during the hearing stage, the Respondent accepted his mistake before the Committee. The Committee further noted that the amount of the outstanding fee was Rs. 15,000/-. The Committee also noted that the Complainant requested to withdraw the Complaint as his outstanding fees were duly cleared.

5. The Committee, looking into the gravity of the charge *vis-a-vis* submissions of the Respondent before it, observed that the Respondent not only failed to communicate with the previous auditor but also contravened the guidelines issued by the Council regarding payment of undisputed fees at the time of accepting the audit. Accordingly, the Committee decided to give reasonable punishment to the Respondent in the instant matter.

6. Therefore, keeping in view the facts and circumstances of the case, the material on record, and the submissions of the Respondent before it, the Committee ordered that the Respondent, CA. Rahul Kumar Agarwal (M. No. 310334), be reprimanded along with a fine of Rs. 5,000/- (Rupees Five Thousand Only).

sd/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

sd/-

(MRS. RANI NAIR, I.R.S. RETD.)
GOVERNMENT NOMINEE

sd/-

(SHRI ARUN KUMAR, I.A.S. RETD.)
GOVERNMENT NOMINEE

sd/-

(CA. SANJAY KUMAR AGARWAL)
MEMBER

sd/-

(CA. SRIDHAR MUPPALA)
MEMBER

DATE: 13th MAY, 2023

PLACE: NEW DELHI

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Certified to be true copy
सीए श्रुति वर्ग / CA. Shruvi Garg
सहायक निदेशक / Assistant Director
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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