



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

[PR-220/18-DD/250/18/BOD/525/2019]

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 Umesh Khanna,
Proprietor, Khanna Traders,
New Delhi.

....Complainant

-Vs-

CA. Neeraj Bansal, (M.No.088870)
New Delhi.

.... Respondent

[PR-73/17/DD/98/2017/BOD/525/19]

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. Neeraj Bansal (M. No.088870)** 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. Neeraj Bansal** 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. Neeraj Bansal** made his written representation vide letter dated 13th March, 2023 and also appeared before the Board in person on 17th March, 2023 and made his oral submissions thereat.
4. **CA. Neeraj Bansal**, in his written representation, inter-alia, stated as hereunder: -
 - (i) An email dated 16.04.2021 was sent to Mr. Ramesh Ranade, Director and other directors of M/s Scholar Publishing House Private Limited, 85, Model Basti, New Delhi-110005 asking them to confirm the details as has been mentioned in the referred email.



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- (ii) An email dated 19.04.2021 was also sent to Sh. Santosh Kumar, Registrar of Companies, New Delhi – 110019 in connection with the discrepancies in the Annual Audited Accounts of M/s Scholar Publishing House Pvt. Ltd. for the FY 2007-2008 to FY 2010-2011 for taking appropriate actions.
- (iii) Necessary steps were taken by him to impress upon the directors of M/s Scholar Publishing House Private Limited to produce the original copies of the Annual Audited Accounts for the Financial Year 2007-2008, 2008-2009, 2009-2010 and 2010-2011 before the Board of Discipline to confirm that the Annual returns were uploaded on the portal of Ministry of Corporate Affairs based on the original copies of the annual Accounts of the said financial years as audited by their statutory Auditors which were brought to his office for verification.
- (iv) If at all and as per his earlier statement, Sh. Rajneesh Pandey (Membership No. 072807), Chartered Accountant denied having been the Statutory Auditor of Scholar Publishing House Private Limited in signing the Audited Financials of Financial Year 2008-2009, 2009-2010 and 2010-2011 and alleging his signatures to be fabricated/ false and on the other hand he has tendered his resignation from the office of Auditor of the Company vide his letter 25.05.2014 and filing Form ADT 3 (Notice of Resignation by the Auditor) with the Ministry of Corporate Affairs using his digital Signatures and issuing a No Objection Certificate dated 12.06.2014 in favour of new Auditor Mr. Kashish Bansal, FCA stating that he has no objection if he is appointed as its Statutory / Independent Auditors of the company which proves that he indeed was the Statutory Auditor of the Company who had signed the annual accounts but is making different statements at different times and he should be asked to explain his stand before the Board before coming to any final conclusion.
- (v) Though the annual Returns for the financial years namely 2007-2008, 2008-2009, 2009-2010 and 2010-2011 of M/s Scholar Publishing House Private Limited were uploaded with the Ministry of Corporate Affairs using his signatures but the same were uploaded on MCA portal only based on the original copies of the annual Accounts of the said financial years as audited by the statutory auditors of the Company being brought for his verification by the directors of the Company to his office and he had no reason to disbelieve their authenticity.
5. The Board has carefully gone through the facts of the case along with the oral and written representation of **CA. Neeraj Bansal**.
6. As per the Findings of the Board as contained in its report, it cannot be held that filing of the audited financial statements of the company for the F.Y. 2007-08 to 2010-11 with the ROC wherein the concerned auditors denied to have audited the financial statements and the existence of the originals for the same was not established was not in the knowledge of the Respondent. The



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circumstantial evidences clearly indicate that the Respondent was privy to such information and he compromised his position to the advantage of the directors of the company. Such an act on the part of the Respondent has clearly brought disrepute to the profession. Thus, having regard to the attendant circumstances, the evidence and submissions on record, the Board held **CA. Neeraj Bansal** 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. Neeraj Bansal** and Keeping in view his oral and written representation before it, **the Board decided to remove the name of CA. Neeraj Bansal (M. No. 088870) from the Register of Members for a period of 15 (Fifteen) days.**

Sd/-


CA. Rajendra Kumar P.
(Presiding Officer)

Sd/-

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

DATE: 19th April 2023

प्रमाणित सत्य प्रतिलिपि / Certified true copy


मुकेश कुमार मिश्रल / Mukesh Kumar Mittal
सहायक सचिव / Assistant Secretary
अनुशासन-सम्बन्धित विभाग / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

CONFIDENTIAL

BOARD OF DISCIPLINE

Constituted under Section 21A of the Chartered Accountants Act 1949

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

File No. : PR-73/17/DD/98/2017/BOD/525/19

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 Umesh Khanna
Proprietor
Khanna Traders,
16-B, Harihar Apartments,
Ashok Vihar, Phase II,
NEW DELHI – 110052.

.....Complainant

Versus

CA. Neeraj Bansal, (M.No.088870)
84, Model Basti
East Park Road,
Karol Bagh
NEW DELHI -110005

.....Respondent

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

PARTIES PRESENT:

Complainant : Shri Umesh Khanna (through Video Conferencing)
Respondent : CA. Neeraj Bansal (present in person)

FINDINGS:

Charge Alleged:

1. The Respondent in connivance with the Directors of M/s Scholar Publishing House Pvt. Ltd forged the signatures of other Chartered Accountants i.e. of CA. D.K. Agarwal and CA.

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Rajneesh Pandey on audit report alongwith financial statements for Financial Years 2007-08 to 2010-11 and later on he filed Form 23AC in year 2015-16.

The Board considered the Prima Facie Opinion dated 22nd April, 2019 of the Director (Discipline) along with the Complaint, Written Statement and Rejoinder on record. On consideration of the same, the Board was of the view that while filing Form 23AC in respect of the company for the F.Y. 2007-08 to 2010-11, the Respondent ought to have been more cautious especially in view of denial by the concerned statutory auditors of having signed the audited financial statement of the company for the years under question, and thus did not agree with the Prima Facie Opinion of the Director(Discipline) that the Respondent is Not Guilty of Other Misconduct falling within the meaning of Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with section 22 of the said Act and decided to proceed under Chapter IV of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

Brief of Proceedings held:

2. At the time of hearing held in the case on 07th April 2021, the Complainant was present before the Board through video conferencing and the Respondent was present in person. The Complainant and the Respondent were put on oath. The Complainant confirmed that he has read and understood the contents of the modalities and protocols of e-hearing and will follow them. Thereafter, the charges were read and 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 detailed oral as well as written submissions. Thereafter, the Complainant also made his counter submissions to substantiate the charges alleged against the Respondent. On consideration of the documents and the submissions on records, the Board adjourned the hearing in the case with the direction to the Respondent to submit following documents / information with a copy marked to the Complainant. Further, the Complainant was also asked to submit his comments thereon, if any:
 - i. What action has been taken by the Scholars Publishing House Pvt. Ltd. against the previous auditors of the company for the F.Y. 2007-08 to 2010-11 for alleged forgery?
 - ii. Action taken by the Respondent when he came to know about the forgery of the signatures of the auditors of the company on the financial statement of the company for the F.Y. 2007-08 to 2010-11 and why no intimation was given to the ROC about the same since Form 23AC had been certified and uploaded on the MCA portal by him.
 - iii. Since the office has been directed to request the Company to produce its original audited financial statement for the financial year 2007-08 to 2010-2011 before Board for verification, the Respondent was advised to ensure the same as he had verified it at the time of certifying Form 23AC.

Further, the Board also directed the office to write a letter to:

- i. M/s. Scholars Publishing House Pvt. Ltd.:- to produce original audited financial statement of the company for the financial year 2007-08 to 2010-2011 before the Board for verification.

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- ii. CA. D.K. Agarwal and CA. Rajnish Pandey seeking the audited financial statement of any other corporate client audited by them during the F.Y. 2007-08 and 2008-09 to 2010-11 respectively.

In response thereto, CA. Dinesh Kumar Agarwal, Partner, M/s. K.M. Agarwal & Co. vide letter dated 13th September 2021 submitted his reply.

Thereafter, at the time of next hearing held in the case on 26th April 2022 the Complainant was present through video conferencing and the Respondent was present in person. 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 continue from the last proceedings. The Board noted that the response of the Respondent and CA. D.K.Agarwal as sought at the last hearing held in the case had been received. However, no response had been received from M/s. Scholars Publishing House Pvt. Ltd and CA. Rajnish Pandey. Thereafter, the Complainant and the Respondent made their respective submissions before the Board. The Respondent was examined by the Board. On consideration of the documents and submissions on record, the Board decided to conclude the proceedings in the case. The Board asked the office to examine the scanned copy of the audited Financial Statements of the company which have been attached to the Form 23AC certified by the Respondent for the F.Y. 2007-08 to 2010-11 with respect to the manner in which the same have been signed by the concerned auditors. Accordingly, the decision on the conduct of the Respondent was kept reserved by the Board. Thereafter, the Board at its meeting held on 2nd June 2022 decided on the conduct of the Respondent.

Brief of Submissions

A: RESPONDENT

3. The Respondent, in his defence, inter-alia, stated as hereunder:
 - a. Form 23B for appointment of Respondent's firm for carrying out the audit of M/s Scholar Publishing House Private Limited (hereinafter referred to as the "Company") for the financial year 2011-2012 was filed with the Ministry of Corporate affairs and the counter signature on the intimation of appointment as auditor was duly signed by him on 01.10.2011.
 - b. However, following the principle of professional ethics, a letter asking for the No Objection was sent to the previous auditor seeking their No objection as regards his appointment as the Statutory Auditors of the company for the financial year 2011-2012. Since no communication was received from the previous auditors, a letter dated 21.10.2011 was marked and delivered to the Director of the company stating the inability to the appointment as Statutory Auditors for the Financial Year 2011-2012.
 - c. The annual Returns for the financial years namely 2007-2008, 2008-2009, 2009-2010 and 2010-2011 of the company were uploaded with the Ministry of Corporate Affairs using Respondent's signatures. The same were uploaded based on the original copies of

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the annual Accounts of the said financial year as audited by the statutory Auditors of the company brought for their verification.

- d. All the allegations as made by the Complainant are based on vague assumptions. The Respondent never ever signed the annual Reports of the company for any of the financial years namely 2007-2008, 2008-2009, 2009-2010 and 2010-2011 as mentioned in the complaint as he was never the statutory auditor of the company.
- e. The Respondent did not check the originality and authenticity of the financial statements is proved wrong as the annual accounts were uploaded based on the original copies of the annual accounts for the financial years namely 2007-2008, 2008-2009, 2009-2010 and 2010-2011 which were brought by the director of the company Mr. Ramesh Ranade to his office.
- f. The Respondent denied the allegation of helping the directors or anyone else and also denied forging the signatures of the Auditor CA. D.K. Aggarwal and CA. Rajneesh Pandey.
- g. The alleged assumption that "*Form 23AC filed by Neeraj Bansal for all the years after 2007-2008 till 2010-2011 were filed in the financial year 2015-2016 after a gap of 8 years*" and that there is a direct collaborative effort and collusion between fraudulent intention of directors and actions of Respondent is purely based out of surmises. The Director of the Company Mr. Ramesh Ranade engaged the Respondent to do the Annual filing with the Ministry of Corporate Affairs from FY 2007-2008 till FY 2010-2011 based on certain directives from the Honorable Tis Hazari Court.
- h. The responsibility and answerability of the misstatement and gross errors in balance sheets supposedly audited by the two chartered accountants lies solely and only now on the Respondent is in the nature of purely an assumption based on no evidence and is only for the sake of making a complaint. Since the Respondent did not carry out the statutory audit of any of the above mentioned financial years, he cannot be held liable for any errors and misstatements in the financial statements for the year 2007-2008 and for subsequent years as well.
- i. Initially, it was stated by CA. Rajneesh Pandey in his reply dated 14.02.2017 in response to complaint No. PR-258/2016-DD/280/2016 denying his involvement in signing the Audited Financials of Financial Year 2008-2009, 2009-2010 and 2010-2011 of the company alleging his signatures to be fabricated/ false and on the other hand, he tendered his resignation from the office of Auditor of the Company vide his letter dated 25.05.2014 and filing Form ADT 3 (Notice of Resignation by the Auditor) with the Ministry of Corporate Affairs using his digital Signatures.
- j. The company vide resolution passed on 20.06.2014 duly signed by its director at its Board Meeting appointed CA. Kashish Bansal as Statutory Auditors of the Company for the FY 2013-2014 to fill the casual vacancy caused by the resignation of M/s Rajnish & Company, Chartered Accountants as auditors.



- k. Also, a No Objection Certificate dated 12.06.2014 has been issued by CA. Rajneesh Pandey (Membership No. 072807) in favour of CA. Kashish Bansal stating that "He has no objection if you are appointed as its Statutory / Independent Auditors of the Captioned Company".
- l. Copy of the Resignation as Statutory Auditors, Copy of the NOC to the incoming Statutory Auditors and the copy of the Board Resolution clearly proves that the Respondent was never the Auditor of the company and also did not forge the Signatures of any of its auditors as can be established from Form ADT 3 which have been filed by CA. Rajneesh Pandey himself by attaching his digital signatures.
- m. On one side it is assumed and stated that the Respondent might have helped the directors in drafting of the balance sheets and in forging of the signatures of the two Chartered Accountants and on the other side, it is stated that the signatures of the two chartered accountants might have been forged by the Directors themselves.

In response to the specific queries of the Board raised at the time of hearing held in the case on 7th April 2021, the Respondent submitted as under:

- i. What action the company took against the Auditors who conducted the Audit for the Financial Year 2007-2008 to FY 2010-2011 - An email dated 16.04.2021 followed by a reminder email dated 04.05.2021 was sent to Mr. Ramesh Ranade, Director and other directors of the company asking to confirm the details .However, the reply is awaited.
- ii. What action did the Respondent take in informing Ministry of Corporate Affairs – An email dated 19.04.2021 addressed to Sh. Santosh Kumar, Registrar Of Companies, New Delhi – 110019 in connection with the discrepancies in the Annual Audited Accounts of the company for the FY 2007-2008 to FY 2010-2011 was sent.
- iii. Another Email dated 19.04.2021 was sent to the Complainant, enclosing the documents pertaining to the Court Order by ACMM TIs Hazari instituted on 10.03.2015 In the matter of Registrar of Companies (Complainant) Vs. Scholar Publishing House Private Limited & Ors (Accused Persons) based on which the Annual Returns (Form 20B & Form 23AC) for the financial years namely 2007-2008, 2008-2009, 2009-2010 and 2010-2011 were uploaded on the Portal of Ministry of Corporate Affairs.

B: COMPLAINANT

4. The Complainant, in his submissions, inter-alia, stated as hereunder:
 - a. In Appeal CRL.L.P. 78/2019 has been filed against the Order of ACMM (SPL. ACMM TIs Hazari Delhi in CC 512149/016 by ROC (Registrar Of Companies Delhi) on 29.1.2017

- b. ROC (Registrar of Delhi) has filed a new case CC 795/2019 on 13-12-2019 against the directors of the "Company" for commission of offences under Section 206(7) of the Companies Act, 2013 for contravention of Section 206(4) of Companies Act, 2013.
- c. The information sought by ROC was not furnished by the directors of the Company. The Respondent is also seeking reply and information from the Company.

C: THIRD PARTY

5. CA. Dinesh Kumar Agarwal, in his submissions, inter-alia, stated as hereunder:

(a) The impugned complaint relates to issue where the Respondent in collusion with the management of the company had forged his signatures on the draft independent auditor's report and financial statements for FY 2007-08 prepared and audited by him and made necessary compliances with MCA using his digital signatures. When he was apprised of said forgery, he moved a separate complaint against the Respondent before the ICAI vide complaint reference no. PR-257/2016-DD/279/2016. He filed complaints before Delhi Police as well as jurisdictional Registrar of Companies (MCA) against the company and the Respondent .

(b) The Hon'ble BOD required CA. Dinesh Kumar Agarwal to file audited financial statements of a corporate client other than SPHPL audited by him during FY 2007-08 to FY 2010-11. In this regard, he submitted that it is not appropriate on part of him to file records pertaining to any client nowhere related to impugned complaint being such other client have no locus standi in the impugned complaint and in case the desired documents are brought on record in respect of impugned complaint, the same will somehow become eligible to be shared with the Complainant and the Respondent, which will result in breach of confidentiality of affairs of other clients. He further assured that he will file the desired document subject to availability of records as on such date and after obtaining NOC from such client to share its records.

(c) He further requested the Hon'ble BOD that it may engage a forensic expert to investigate the copy of audited financial statements of the company under question in the impugned complaint and determine the authenticity of the signatures and confirm the alleged forgery.

Observations of the Board:

6. On perusal of the submissions and documents on record, the Board noted that the Complainant alleged various errors in financial statements for the Financial year 2007-08 to 2010-11 wherein financial Statement of the company for the Financial year 2007-08 had been allegedly audited by CA. D. K. Aggarwal and financial Statement of the company for the Financial year 2008-09 to 2010-11 had been audited by CA. Rajnish Pandey. However, CA. Rajnish Pandey in response to the complaint made with the Institute by the Complainant stated that he did not sign the Balance Sheets of the Company for the financial Years 2008-09 to 2010-11. CA. D. K. Aggarwal also stated that he did not sign the Balance sheet of the company for the Financial Year 2007-08 whereas the signatures of above Chartered Accountants are appearing on the financial statements of the Company for the said years. The Board further noted that as per records Form 23AC of the company



for the financial years 2007-08 to 2010-11 had been filed with the ROC in 2015 with due certification by the Respondent.

7. The Board on perusal of the said Forms observed that although the Financial Statements had been audited on different dates and the directors' had been authorised vide different board resolutions passed on different dates as stated hereunder to sign and submit the said Forms, Form 23AC had been filed in 2015 for all the said years:

Financial Year	Date of signing of the Financial statements by the auditor	Date of Board resolution for authorizing the director to sign and submit Form 23AC	Date of filing Form 23AC
2007-08	2 nd September 2008	2 nd September 2008	13 th January 2016
2008-09	2 nd September 2009	28 th September 2009	11 th September 2015
2009-10	2 nd September 2010	2 nd September 2010	24 th September 2015
2010-11	2 nd September 2011	2 nd September 2011	19 th January 2016

8. The Board also noted that there was following balance mismatch in Form 23 AC in opening and closing balance as filed from year to year 2007-12:

Form 23 AC for Financial Year	Loans receivable opening for year	Loans receivable closing for year	Inventory opening for year	Inventory closing for year	Cash and bank balance for year	Other current assets opening for year	Other current assets closing for year	Loan term loan opening for year	Long Term loan closing for year
2003-2004	8,33,057	10,25,231	26,96,069	19,05,553		1,21,190	1,21,190	0	0
2004-2005	10,25,231	11,94,960	19,05,553	16,49,000		1,21,190	1,23,730	0	0
2005-2006	11,95,000	13,05,000	16,49,000	16,48,000	25,54,000	1,23,000	1,55,000	0	0
2006-2007	13,05,000	15,12,000	16,48,000	21,56,000	26,31,000	1,55,000	1,59,000	0	0
2007-2008	38,22,275	96,74,522	0	0	73,779	0	0	0	0
2008-2009	46,32,665	62,72,247	50,16,153	46,17,392	1,90,708	0	0	0	0
2009-2010	2,978,479	4,381,131	46,17,392	39,22,235	4,07,308	32,94,268	61,60,085	0	0
2010-2011	0	0	0	0	28,07,707	11,202,532	14,463,451	0	0
2011-2012	3,616,766	1,006,957	2,422,235	1,287,265	1,188,813	0	0	5,163,531	7,079,080
2012-2013	1,006,957	1,006,957	1,287,265	702,755	564,899	0	0	7,079,080	7,054,080

9. The Board also noted that the Respondent was appointed the auditor of the company for the F.Y. 2011-12 vide appointment letter dated 1st October 2011 and Form 23B in respect of such appointment had also been filed with ROC. However, vide letter dated 21st October 2011 the Respondent resigned from the position of the auditor of the company

as he did not receive any reply from the previous auditor of the company in response to his letter seeking his no objection.

10. The Board also noted that the Respondent's professional association with the company was not only limited to ROC certification for the said financial years, but the Respondent also certified the Form 23AC of the said company for the F.Y. 2011-2012 and 2012-13 and Form 20B for the F.Y. 2013-14. The Respondent's firm was also appointed as the statutory auditor of the following sister concern(s) of the company for the following financial years:

Name of the sister concern of the company for which Respondent's firm appointed as auditor	Financial Year for which audit conducted
M/s Aadya Books Pvt. Ltd.	F.Y 2010-11 to 2015-16
M/s Xow Books Pvt. Ltd.	F.Y 2007-08 to 2015-16
M/s Vaanya Impex Pvt. Ltd.	F.Y 2008-09 to 2015-16

The Respondent also represented two of the sister concerns of the company before the ROC.

11. The Board observed that as per the Respondent the annual accounts of the company were uploaded based on the original copies of the annual accounts for the financial years namely 2007-2008, 2008-2009, 2009-2010 and 2010-2011 which were brought by the director of the company Mr. Ramesh Ranade to his office. He also brought on record copy of the emails addressed to one of the directors of the company with copy marked to the other directors of the company to confirm as to who was the auditor of the company for the aforesaid financial years under question and to be present before the Board with the original audited Financial Statements of the company for its verification. However, the company did not respond and accordingly, the Respondent could not produce the same before it. Even the Board asked the company to produce the original audited financial statements of the company for the aforesaid years for verification, however, no response was received. Whereas, the status of the company as per MCA records is still active.
12. The Board also noted that in an application dated 4th June 2015 filed by the company u/s 621 of the Companies Act in the Court of ACMM, Tis Hazari Court, Delhi, the directors of the company stated as under:

"the non-filing of the Balance Sheet, P& I account and annual return was neither intentional nor deliberate but only on account of some dispute interse between the directors of the accused company.

.....on being served in the present matter, the accused persons immediately contacted his chartered accountant (emphasis provided) and filed annual return for the period 31.03.2008 to 31.03.2014....."

13. Further, on bare perusal with the naked eye of the signatures on the copy of the audited financial statement of the company allegedly audited by CA. D. K. Aggarwal for the financial year 2007-08 and allegedly audited by CA. Rajnish Pandey for the Financial year 2008-09 to 2010-11 which had been uploaded alongwith the Form 23AC by the Respondent, the Board observed that they clearly seem to be photoshopped as the

signatures on each documents differ by some degree even if signed by the same person, however, on the financial statements under question they are exactly the same in all degrees and strokes.

14. The Board also observed that the Respondent's firm and the company shared adjoining addresses.
15. In the instant case, the Board observed that the limited role of the Respondent was certification of Form 23AC for the F.Y. 2007-08 to 2010-11. The primary diligence expected of him was to bring on record the original of the audited financial statements of the company on the basis of which he carried out the said certification which he failed to do.
16. The Board also noted that there was a time gap between the date of board resolution authorizing one of the directors of the company to sign and submit Form 23AC and the actual filing of the Form 23AC with the ROC without any plausible explanation. Although in an application dated 4th June 2015 filed by the company u/s 621 of the Companies Act in the Court of ACMM, Tis Hazari Court, Delhi, the directors of the company attributed the non-filing of the Balance Sheet, P& I account and annual return due to some dispute interse between the directors of the company, however, the same was not acceptable as had the dispute amongst the directors of the company be the real reason for the delay, the board resolution for authorizing one of the directors of the company to sign and submit Form 23AC would not have been of the same date as the date of signing the audited financial Statement of the company. Also, in normal parlance the audited financial statements of the company are filed with the ROC by the statutory auditor of the company only. However, in the instant case, the same was not there. Also, in an application dated 4th June 2015 filed by the company u/s 621 of the Companies Act in the Court of ACMM, Tis Hazari Court, Delhi, the directors of the company confirmed that they contacted their 'Chartered Accountant' and filed annual return for the period 31.03.2008 to 31.03.2014. The Board observed that it was an admitted fact that the Respondent was never the statutory auditor of the company for the period under question and had role only in certification of ROC Forms. Equating the said assignment to being their 'Chartered Accountant' in a way indicates that their professional relationship extended beyond the said certification. No plausible justification was evident in this regard from the submissions and documents brought on record by the Respondent in his defence.
17. In view of the above, the Board was of the view that it cannot be held that filing of the audited financial statements of the company for the F.Y. 2007-08 to 2010-11 with the ROC wherein the concerned auditors denied to have audited the financial statements and the existence of the originals for the same was not established was not in the knowledge of the Respondent. The circumstantial evidences clearly indicate that the Respondent was privy to such information and he compromised his position to the advantage of the directors of the company. Such an act on the part of the Respondent has clearly brought disrepute to the profession.
18. Thus, having regard to the attendant circumstances, the evidences and submissions on record, the Board held that the Respondent is **GUILTY** of Other Misconduct falling within

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the meaning of Clause (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of Said Act.

CONCLUSION:

19. The Board of Discipline, in view of the above, is of the considered view that the Respondent is **GUILTY** of Other Misconduct falling within the meaning of Clause (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of Said Act.

Sd/- CA. Prasanna Kumar D. (Presiding Officer) Sd/- Ms. Dolly Chakrabarty (IAAS, ret'd.) (Government Nominee) Sd/- CA. (Dr.) Raj Chawla (Member)

Date: 10th February 2023

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बिना नाथ शिवाजी / Bishwa Nath Therasi
कार्यकारी अधिकारी / EXECUTIVE OFFICER
अनुशासनशास्त्रक विदेशालय / Disciplinary Directorate
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