BOARD OF DISCIPLINE

(Constituted under Section 21A of 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-312/2014-DD/327/2014/BOD/256/2017

QUORUM:

CA. Nilesh S. Vikamsey, Presiding Officer
Shri R K Tewari, Government Nominee
CA. (Dr.) Debashis Mitra, Member

In the matter of:

CA. Gireesh Bhalla (M.No 081702)
Partner of Gireesh Bhalla & Co. (005854-N)
M-1, Ashoka Centre,
E-4/15, Jhandewalan Extension,
New Delhi-110005 .....**Complainant**

v/s

CA. Pradeep kumar Sharma (M.No. 518048)
M/s Pradeep K Sharma & Associates,
(FRN No. 023832-N)
12/228, Gali No. , Mohan Nagar,
Jhajjar Road,
Bahadur Garh-124507(Haryana) .....**Respondent**

DATE OF HEARING	:	**18.09.2017**
PLACE OF HEARING	:	**New Delhi**

PARTIES PRESENT:

Respondent	:	**CA. Pradeep Kumar Sharma**

Findings:

1. The Board noted that the charge against the Respondent is that he accepted the position as the statutory auditor of M/s Mohit Minerals Pvt. Ltd., New Delhi for the financial year ending 31.03.2014, previously held by the Complainant without first communicating

with him in writing and without first ascertaining from it whether the requirement of section 225 of the Companies Act, 1956 in respect of such appointment have been duly complied with.

2. The Board noted that the Complainant was not present before it in spite of the due service of the notice of the hearing. Accordingly, the Board decided to proceed ahead with the hearing in the matter exparte the Complainant.

3. The Board heard the submissions made by the Respondent and duly considered the documents and further submission available on record.

4. The Board noted that the Respondent stated that he had prepared a letter dated 05.07.2014 addressed to the Complainant firm and handed over the same to the Company. He was informed by the Company that the letter had been delivered to the Complainant. However, the company in its submission dated 15th September 2017 brought on record by the Respondent categorically stated that it did not pursue the NOC under the impression that it was an unnecessary procedure which the Respondent suggested to them. It was also stated in the said letter that since these procedural issues were not reckoned as something serious by the company, the Respondent is facing disciplinary action. The Director of the auditee company deeply regretted the manner in which the appointment of the Respondent was handled by the company and acknowledged that the Respondent as a young member of the profession he had not been able to assert his position before the company in the bargain of obtaining a new professional assignment.

5. The Board also considered the submission of the Respondent that the audit report of the company for 2012-13, audited by the Complainant was clean and unqualified. The Board also noted that the Respondent accepted his guilt before the Board and failed to bring on record any evidence of delivery of communication to the Complainant. Accordingly, the Board held the Respondent Guilty in respect of his charge.

6. As regards the charge of non compliance with the requirements of section 225 of the Companies Act, 1956, the Board perused the copy of the letter dated 4th October, 2013 addressed to the Complainant wherein he was informed that his firm has been re-

appointed as the Auditors of the Company under section 224 of the Companies Act, 1956, pursuant to General meeting resolution dated 30th September, 2013. The Board further noted that the Company vide letter dated 15-09-2017 informed the Institute that the Respondent was appointed against the casual vacancy which arose post resignation of the Complainant. However, the Company and the Respondent both failed to bring on record the resignation letter of the Complainant.

7. Further, the Respondent also accepted the default of non-compliance with the requirement of Section 225 of the Companies Act, 1956 at the time of hearing. Accordingly, the Board held the Respondent Guilty in respect of his charge.

Conclusion:

8. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **GUILTY** of "Professional Misconduct" falling within the meaning of Clauses (8) and (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

-Sd/-	-Sd/-	-Sd/-
(NILESH S VIKAMSEY)	(R K TEWARI)	(DEBASHIS MITRA)
PRESIDING OFFICER	GOVERNMENT NOMINEE	MEMBER

DATE: 10th FEBRUARY, 2018

PLACE: NEW DELHI

Certified True Copy

Shashi Mahajan
Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India
ICAI Bhawan, I.P. Marg, New Delhi-110 002

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

ORDER UNDER SECTION 21 A(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.

CA. Gireesh Bhalla, New Delhi **....Complainant**

-Vs-

CA. Pradeep Kumar Sharma (M. No.518048),
Bahadurgarh **.....Respondent**

[PR-312/14-DD/327/2014/BOD/256/2017]

CORAM:

CA. G. Sekar, Presiding Officer
Shri R.K. Tewari (Government Nominee)
CA. Dhinal Ashwinbhai Shah (Member)

1. That vide Report dated **10th February, 2018**, the Board of Discipline was of the opinion that **CA. Pradeep Kumar Sharma** is guilty of Professional Misconduct falling within the meaning of Clauses (8) and (9) of Part Iof the First Schedule to the Chartered Accountants Act, 1949.

2. That an action under Section 21A(3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Pradeep Kumar Sharma** and communication dated 09th March, 2018 was addressed to him thereby granting him an opportunity to make written representation.Further, vide letter dated 19th June, 2018 **CA. Pradeep Kumar Sharma** was granted opportunity to represent himself in person & make his representation before Board on 28th June, 2018.

3. That despite due service of the notice of the hearing for award of punishment, **CA. Pradeep Kumar Sharma** did not appear before the Board. The Board took a view of the conduct of the Respondent on account of his non-appearance before the Board at the time of award of punishment.

4. This Board has carefully gone through the facts of the case.

5. As per the findings of the Board dated 10th February, 2018, **CA. Pradeep Kumar Sharma** had accepted the assignment of Statutory Audit of M/s Mohit Minerals Pvt. Ltd. for the year ending 31st March, 2014 without first communicating with the Complainant and also did not ensure that all the relevant provisions of the Companies Act,1956 as regards his appointment have been duly complied with.

6. The Board also noted that **CA. Pradeep Kumar Sharma** accepted his guilt before the Board and failed to bring on record any evidence of delivery of communication to the Complainant and accordingly in holding the Respondent guilty.

7. As regards the charge of non compliance with requirements of Section 225 of the Companies Act,1956,the Board on perusal of findings dated 10th February, 2018 noted that the did not ensure compliance with the provisions of Section 225 of the Companies Act,1956 before accepting the said appointment.

8. As per the findings of the Board as contained in its report, it has already been conclusively proved that **CA. Pradeep Kumar Sharma** is Guilty of Professional Misconduct falling within the meaning of Clauses (8) and (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

9. Upon consideration of the facts of the case, the consequent misconduct of **CA.Pradeep Kumar Sharma**, the Board was of the view that the ends of justice shall be met if Respondent is reprimanded.

10. **Accordingly, the Board decided to reprimand CA. Pradeep Kumar Sharma.**

Sd/-	Sd/-	Sd/-
(G. SEKAR)	**(R K TEWARI)**	**(DHINAL A. SHAH)**
PRESIDING OFFICER	**GOVERNMENT NOMINEE**	**MEMBER**

DATE: **28th JUNE, 2018**

PLACE: **NEW DELHI**

Certified True Copy

Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India
ICAI Bhawan, I.P. Marg, New Delhi-110 002