

**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-17/15-DD/33/2015/BOD/330/2017**

**QUORUM:**

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

**In the matter of:**

**CA Shekhar A Parkhi, Nashik  
7 Rushiraj Enclave  
D'souza Colony  
College Road  
Nashik – 422005**

**.....Complainant**

**Versus**

**CA. Harshal Govind Jethale (M.No.141162)  
M/s Harshlal Jethale & Associates  
Chartered Accountants  
B-25 Sankap Sharda Colony,  
Near Mahabal, 17, North Road,  
Jalgaon-425002**

**..... Respondent**

**DATE OF HEARING: 02.01.2018**

**PLACE OF HEARING: MUMBAI**

**PARTIES PRESENT:**

**Respondent**

**:**

**CA. Harshlal Govind Jethale**

**Findings:**

1. The Board noted that the charge on which the Respondent has been held prima facie guilty is that he had accepted statutory audit of M/s Atal Buildwell Private Limited for the financial year 2012-13 and 2013-14 without first communicating in

writing with the Complainant and not ensuring compliances with the provisions of Section 224 and 225 of the Companies Act, 1956 before accepting the said appointment.

2. The Board heard the submissions made by the Respondent and duly considered the submissions/documents available on record.
3. As regards the first charge, the Respondent submitted a letter dated 04.02.2013 addressed to the Company regarding seeking NOC from the previous auditor and further received an assurance letter from the Company dated 08.02.2013 stating that the same will be provided to him within due course of time. The Respondent also accepted before the Board that the NOC was taken by him orally and not in writing from the Complainant. The Board opined that as per Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 an incoming auditor should communicate with the outgoing auditor in writing first before accepting the position of an auditor. Since, the communication was not done as per the requirements of Clause (8), the Respondent is held **GUILTY** in respect of this charge.
4. As regards the next charge of non-complying with the requirements of Section 225 of the Companies Act, 1956, the Board noted that the Respondent failed to verify the records of the Company in respect of his appointment so as to ensure compliance with Section 224 and 225 of the Companies Act, 1956. The Respondent admitted that he was informed by the auditee company that the Complainant was not eligible to be appointed as an auditor of the Company for the financial year 2012-13 as he failed to provide his eligibility certificate to the Company as prescribed under Section 224 (1B) of the Companies Act, 1956. The Board also noted that the Complainant in his rejoinder at Prima Facie Stage stated that neither the Company asked for the eligibility certificate nor the Complainant communicated his ineligibility/unwillingness of being re-appointment for next financial year under Section 224 (1) of the Companies Act, 1956. Further, the Code of Ethics lays down, where the auditor other than the retiring auditor is proposed to be appointed, the incoming auditor should ascertain whether the provisions of Section 225 have been complied with. In this regard, the Respondent in his defence brought on record documents like minutes of the Board of Directors, certified copy of resolution passed, notice calling

AGM, minutes of AGM dated 28<sup>th</sup> September, 2012 and certified copy of Resolution passed etc. but failed to provide any communication from the company addressed to the Complainant seeking his "**Written Certificate**" regarding eligibility as required under Section 224 (1) of the Company Act 1956 which was duly received by him. Thus, in the opinion of the Board, the Respondent failed to ensure that the provisions of Section 224 and 225 of the Company Act 1956 are duly complied.

**CONCLUSION:**

5. 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.

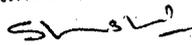
-Sd/-  
**NILESH S. VIKAMSEY**  
(PRESIDING OFFICER)

-Sd/-  
**R. K. TEWARI**  
(GOVERNMENT NOMINEE)

-Sd/-  
**DEBASHIS MITRA**  
(MEMBER)

DATE: 10<sup>TH</sup> 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

2010/10/10



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(Set up by an Act of Parliament)

**ORDER UNDER SECTION 21 A (3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 [AS AMENDED BY THE CHARTERED ACCOUNTANTS (AMENDMENT) ACT, 2006] READ WITH RULE 15(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.**

In the matter of:-

**CA Shekhar A Parkhi, Nashik**

..... Complainant

-Vs-

**CA. Harshal Govind Jethale (M.No.141162),**

**M/s Harshal Jethale & Associates, Chartered Accountants,**

**Jalgaon**

..... Respondent

**[PPR-17/15-DD/33/2015/BOD/330/2017]**

**MEMBERS PRESENT:**

**CA. G. Sekar, Presiding Officer**

**Shri R. K. Tewari (Government Nominee)**

1. That vide Report dated 10<sup>th</sup> February, 2018, the Board of Discipline was of the opinion that **CA. Harshal Govind Jethale** is guilty of "Professional Misconduct" falling within the meaning of Clauses (8) and (9) of Part I of First Schedule of the Chartered Accountants Act, 1949.

2. That an action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Harshal Govind Jethale** and communication dated 31<sup>st</sup> December, 2018 was addressed to him thereby granting him an opportunity of being heard in person and/or to make written representation before the Board on 12<sup>th</sup> January, 2019.

3. That Board of Discipline noted that **CA. Harshal Govind Jethale** did not appear before it on 12<sup>th</sup> January, 2019 despite due service of the notice of hearing for award of punishment to him.

*M*

*SL*



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(Set up by an Act of Parliament)

4. The Board has carefully gone through the facts of the case.
5. As per the findings of the Board as contained in its report, it has already been conclusively proved that **CA. Harshal Govind Jethale** 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.
6. Upon consideration of the facts of the case, the consequent misconduct of the Respondent, and keeping in view that he did not appear at the time of hearing for award of punishment and also did not provide his further representation, the Board was of the view that the ends of justice shall be met by reprimanding him.
7. Accordingly, the Board decided to reprimand **CA. Harshal Govind Jethale (M.No. 141162)**.

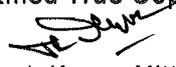
Sd/-  
(CA. G. SEKAR)  
PRESIDING OFFICER

Sd/-  
(SHRI R. K. TEWARI)  
GOVERNMENT NOMINEE

DATED: 12<sup>TH</sup> JANUARY, 2019

PLACE: MUMBAI

Certified True Copy

  
Mukesh Kumar Mittal  
Assistant Secretary  
Disciplinary Directorate

The Institute of Chartered Accountants of India  
Bhai Bhawan, I.P. Marg, New Delhi-110 002