

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-364/2017-DD/365/17/BOD/482/2018]

**CORAM (Present in Person):**

CA. Rajendra Kumar P, Presiding Officer  
Ms. Dolly Chakrabarty (IAAS, Retd.), Government Nominee  
CA. Priti Savla, Member

**In the matter of:**

Sh. Pankaj Narayan Choudhary,  
Prop. M/s Aristo Industries,  
Flat No. 204, Block A, Gopala Green Apartment, Ratan Lal Nagar,  
KANPUR – 208 022.

....Complainant

Versus

CA. Arpit Chopra (M.No. 409593),  
House No. 4B,  
Malik Puram, Near Lillipops School, Govind Nagar,  
KANPUR – 208 006.

.....Respondent

**DATE OF FINAL HEARING** : 6<sup>th</sup> December 2023

**PARTIES PRESENT (in person):**

Son of the Complainant (on his behalf): Shri Pranav Raj  
Respondent : CA. Arpit Chopra

**FINDINGS:**

**CHARGE ALLEGED:**

1. The Respondent was auditor of M/s Aristo Industries (hereinafter referred to as the "entity") whose proprietor is the Complainant. The Complainant alleged that the Respondent abused his official position and entered into criminal conspiracy with his family members and siphoned off a sum of Rs.1.30 crores from entity's account and

*transferred the proceeds to the account owned by his wife, his brother and other family members along with some other persons.*

The Board further noted that the Director (Discipline) in his Prima facie opinion held the Respondent 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 said Act. The Board on consideration of the same noted that criminal proceedings are still in continuation and thus was inclined to examine the matter further. Accordingly, the Board did not agree with the view 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 and decided to proceed further 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.

S. No.	Date of Hearing(s)	Status of Hearing(s)
1	29 <sup>th</sup> April 2019	Adjourned at the request of the Complainant.
2	18 <sup>th</sup> July 2019	Part-heard and adjourned with the direction to the Respondent to provide following documents/ information:  (a) Copy of bank statements to establish that the money invested by the Complainant/ his family being refunded.
3	5 <sup>th</sup> August 2019	The Respondent submitted desired information during the course of hearing with a copy to the Complainant. Thereafter, the case was part-heard and adjourned with a direction to:  the office:  i. To appoint a forensic auditor in the matter where the cost of forensic auditor will be borne by the Respondent if he is proven

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		guilty or by the Complainant if Respondent is proven not guilty.
4	6 <sup>th</sup> December 2023	Heard and concluded based on documents and submissions recorded.

The Board also noted that a panel of Chartered Accountants' firms based in Kanpur having done assignment of Forensic Accounting and Auditing in last 5 years, as received from the PDC, ICAI was placed before it at its Meeting held on 12<sup>th</sup> November 2021 for issue of necessary directions/decision as regard the appointment of forensic auditor in the case. Upon perusal of the panel of Chartered Accountants' firms based in Kanpur having done assignment of Forensic Accounting and Auditing in last 5 years, the Board directed the office to provide the scope of work to be carried out together with the timelines within which the same is to be performed to the top 5 firms in the said panel based on their year of establishment and seek their professional fees and thereafter, place the same before it for arriving at a decision in the matter. Accordingly, the office telephonically contacted the Chartered Accountants' firms based in Kanpur which had done assignment of Forensic Accounting and Auditing in last 5 years as per the details received from the PDC. Out of the said panel of firms, four firms of Chartered Accountants expressed their interest in doing the assignment.

The Board again considered the matter in its meeting held on 3<sup>rd</sup> July 2023 and noted that complete details have not been given by most of the Chartered Accountants' firms. In such a scenario, it would be more appropriate to have a forensic audit done from an agency of the Government of India. Accordingly, the Board advised the office to send necessary communication along with the relevant documents in the case to the said agency and obtain its report. In compliance thereof, the Office sent a communication to the Director, Central Forensic Science Laboratory, New Delhi on 1<sup>st</sup> August 2023 through speed post which was duly served as per the track consignment of Indian Post on 3<sup>rd</sup> August 2023, but no reply was received.

Thereafter, upon Consideration of the case at its meeting held on 26<sup>th</sup> October 2023, the Board observed that despite waiting for a reasonable period of time, no response had been received from the Director, Central Forensic Science Laboratory, New Delhi. In view of the same together with the fact that documents and submissions of both the parties to the case were on record, the Board decided to provide an opportunity of hearing to both the parties to the case at one of its ensuing meeting(s) to come to a logical conclusion in the case. Accordingly, the case was listed for hearing on 6<sup>th</sup> December 2023.

**BRIEF SUBMISSIONS OF THE PARTIES TO THE CASE:**

**(a) RESPONDENT:**

3. The Respondent in his defense, inter-alia, submitted as under: -
- 3.1. The Respondent submitted a copy of the police final report, where the IO reached to the logical conclusion of his investigation that the Respondent has no concern whatsoever in the transaction taken place with the Complainant firm. Further it can be categorically established that the Complainant's case cannot be substantiated by the bank entries. From the perusal of the final report by police and the annexures submitted by the IO it is clearly evident that the payments are credited in the bank accounts of the Complainant and no charge can be substantiated against any of the accused in the FIR.
- 3.2 The Respondent submitted the following details of entries which he had deposited in the account of the entity: -

SNo.	Bank Name	Amount deposited (in Rs.)
1.	Canara Bank Darshanpurwa Kanpur	1,28,77,390/-
2.	Canara Bank Panki Kanpur	52,90,000/-
3.	Indian Overseas Bank Kanpur	92,46,000/-
4.	State Bank of India Dada Nagar Kanpur	14,75,000/-




**BRIEF SUBMISSIONS OF THE COMPLAINANT:**

4. To substantiate his case, the Complainant, inter-alia, submitted as under: -
- 4.1 The Respondent could not adduce any evidence to establish that the amount of Rs. 1,01,62,663/- siphoned by him in different accounts had been return back to the firm. To the contrary it was found that he has shown fictitious cash entries in his statement showing credit in the Bank Account of Aristo Industries. It is matter of great strange that he had deposited the huge amount of cash which is neither permitted under the law, nor he had produced any voucher duly signed by the applicant in support of his statement. Meaning thereby for such a huge amount he had deposited the money without any receipt/ voucher signed by the applicant. The cash entries shown are deposited by the applicant.
- 4.2 The Respondent has also not explained any reason as to why he had opened an account in the name and style of Aristo Industries bearing Account No. 50200008704554 in HDFC Bank, Civil Lines Branch, Kanpur purported to have been opened by some Abhishek Kumar Singh. It is evident from the Account Opening Form of HDFC Bank that the firm's address had been shown as Flat No. 102, Prabhu Vandana Apartment, 9/62, Arya Nagar, Kanpur-208002 which is office of the Respondent. It also consists of mobile no. 7754099999 which is the Respondent. It is also evident from the document no. CA-340 and 341 submitted by the Respondent i.e. statement of bogus account opened by the Respondent in his office address. It consists of the credit entry dated 27<sup>th</sup> December 2014 and 29<sup>th</sup> December, 2014 for Rs. 3,00,000/- and Rs. 5,00,000/- in the account of Insightful Intelligence Consultant Private Limited and R.S. Products respectively and a debit entry dated 01-05-2015 of Rs. 9,00,000/- in the account of Multimedia Electronics and a debit entry dated 05-05-2015 of Rs. 6,00,000/- in the account of R.S. Products. It shows that he is connected with all these firms alongwith R.S. Products, Insightful Intelligence Consultant Private Limited and Multimedia Electronics etc. and there was no business of firm M/ s. Aristo Industries under Proprietorship of Mr. Abhishek Kumar Singh.
- 4.3 As far as final report dated 18-12-2018 filed by Police Authority, Govind Nagar Thana, Kanpur before the Hon'ble Court, Kanpur Nagar is concerned, it is yet not accepted by the

learned Magistrate and the Complainant had filed a protest petition against the final report with the evidences which is now fixed for hearing on 24<sup>th</sup> August, 2019. Hence the Respondent cannot take any plea/benefit of final report until and unless it is accepted by the Hon'ble Court.

- 4.4 It is clear from documents and evidence submitted by him that the Respondent by abusing his official position and with ulterior moto entered into criminal conspiracy with his family members & siphoned a sum of Rs. 1,01,62,663/- from the Complainant's account and transferred the proceeds to the accounts owned by his wife, his own brother and other family members alongwith some other person. which is crystal clear debit entries from the Complainant's bank account for benefit to him and his family members. In this way the Respondent has caused a loss to the tune of Rs. 1,01,62,663/- to the Complainant and corresponding gain to himself.

**OBSERVATIONS OF THE BOARD:**

- 5.1 As regards the focal charge alleged that the Respondent, being the auditor of the Complainant entity abused his official position and for ulterior motive entered into criminal conspiracy and has taken all such cheques from the Complainant for investment purpose to bring Complainant more return than the bank and these cheques were then routed to the Respondent's wife, his brother and other family members along with some other persons for Respondent's family personal gain, the Board noted that the Respondent stated that he was not the auditor of the Complainant's entity and just handled filing of its Income Tax returns. He agreed of steering these cheques to his's wife and his brother's account, but also stated that he owes nothing to the Complainant as he returned back all the money to the Complainant's several bank accounts.
- 5.2 The Board also noted that the Complainant filed the FIR (535/2017) at Govind Nagar Police Station, Kanpur against the Respondent alongwith others on substantially the same charges as alleged in the instant complaint, for which the Investigating Officer in his  investigation filed the Final Report dated 18<sup>th</sup> December 2018 before the competent

Court exonerating all the accused involved in the FIR for all the charges on account of absence of evidence.

- 5.3 The Board also noted that since charge alleged basically involved misappropriation of the funds of the Complainant's entity, the Board had decided to appoint a forensic auditor in the case to bring on record any evidence to substantiate the charge alleged against the Respondent. However, despite efforts being made, the Forensic audit could not be carried out. Further, on perusal of the copy of the bank statements brought on record by both the parties to the case, the Board observed that a to and fro fund movement had been there. However, in the absence of documentary evidence of the said transactions, no inference could be drawn from the same.
- 5.4 The Board also noted that the Complainant in his communication dated 4<sup>th</sup> December 2023 categorically stated that he has already submitted all the relevant documents and also during the course of hearing his son who as a special case on medical grounds was allowed to represent his father, confirmed that they do not have any further document to substantiate the case.
- 5.5 Thus, on a detailed perusal of the submissions and documents on record, the Board was of the view that the Complainant has not been able to substantiate with corroborative and conclusive documentary evidence on the allegation that the Respondent abused his official position and entered into criminal conspiracy with his family members and siphoned off a sum of Rs. 1.30 crores from entity's account and transferred the proceeds to the account owned by his wife, his brother and other family members along with some other persons. In view of the same, the Board held the Respondent NOT GUILTY in respect of the charge alleged.
- 5.6 The Board further noted that the Complainant in his rejoinder submitted at Prima Facie Opinion stage stated that during investigation it transpired that the Respondent in collusion with one Mr. Abhishek Kumar Singh opened bogus account in the name of "M/s Aristo Industries" (i.e. same name as of the Complainant firm) and utilized this account for withdrawal of huge amount. He also brought on record some more evidence during the course of hearing. However, the Board was of the view that since the said charge was not

alleged in Form 'I', the conduct of the Respondent is not subject to examination in respect of the said charge and accordingly, not considered by the Board.

**CONCLUSION:**

6. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **NOT 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. Accordingly, the Board passed Order for closure of the case in terms of the provisions of Rule 15 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

Sd/-

CA. Rajendra Kumar P  
(Presiding Officer)

Sd/-


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

Sd/-

CA. Priti Savla  
(Member)

DATE: 07-02-2024

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

  
नीलम पुंडीर / Neelam Pundir  
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
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