

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-404/2019/DD/20/2020/BOD/603/2022]**

**CORAM:**

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

**In the matter of:**

Shri Sunil Kumar Gulati,  
Director, M/s Alag Intco Hotels Private Limited  
505, Double Storey,  
New Rajinder Nagar,  
NEW DELHI- 110 060.

.....Complainant

Versus

CA. Pradeep Kumar Jindal (M. No. 082646)  
C/o M/s P V R N & Co.,  
6772/2, Block 10B, Dev Nagar,  
Karol Bagh,  
NEW DELHI- 110 005.

.....Respondent

**DATE OF FINAL HEARING : 29<sup>th</sup> June 2023**

**PARTIES PRESENT (in person):**

Complainant : Shri Sunil Kumar Gulati  
Counsel for the Complainant : Shri Ashok Juneja, Advocate  
Respondent : CA. Pradeep Kumar Jindal  
Counsel for the Respondent : Dr. S. S. Sharma, Advocate

**FINDINGS:**

**BACKGROUND OF THE CASE:**

1. The Complainant is the Promoter, Director and shareholder of M/s Alag Intco Hotels Private Limited (hereinafter referred to as the "the Company"). The Respondent Firm is the statutory auditor of the Company since its incorporation and was also engaged in the legal compliances of the Company such as ROC filing of financial statement and annual return, Income Tax Return filing, maintaining statutory registers of the Company since its inception.

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**CHARGE ALLEGED:**

- 2.1 The Respondent has fraudulently and illegally in connivance with Mr. Santosh Chetal (Promoter, Director cum Shareholder of the Company) has transferred Complainant's 25,000 equity shares to Mr. Santosh Chetal. The Complainant placed on record his bank statement wherein he purchased such 25,000 equity shares from Mrs. Jatinder Kaur on 5th June 2008 by making payment of INR 7,25,000/- for 25,000 equity shares purchased at the rate of INR 29/- per share. He came to know about such illegal and fraudulent acts of the Respondent from the petition filed by Mr. Santosh Chetal and his wife Mrs. Meera Chetal under section 241 and 242 of the Companies Act, 2013 before the Hon'ble National Company Law Tribunal.
- 2.2 The Respondent in connivance with Mr. Santosh Chetal and Mrs. Meera Chetal made the illegal allotment of 54,500 equity shares in the name of certain persons and further transferred such shares to Mrs. Meera Chetal with malafide intention to increase the shareholding of Mrs. Meera Chetal.
- 2.3 The Respondent fraudulently affixed his digital signature on Form 23 AC for the FY 2005-06, 2008-09 and 2009-10, Form 20B for FY 2008-09 and on the documents containing fraudulent and illegal transfer of shares of 54,500 shares as filed on behalf of the Company. He further stated that it was a usual practice that the documents/ statutory records were prepared by the Respondent under the guidance of Mr. Santosh Chetal and the Complainant used to sign such returns relying blindly on the faith and trust on the Respondent. He, being merely 12th pass from Hindi Medium used to trust and rely upon the Respondent for all the compliances of the Company.

The Board on consideration of the Prima Facie Opinion of the Director (Discipline), observed that Rs. 7,25,000/- had been paid by the Complainant to Ms. Jatinder Kaur on 5th June 2008 for alleged transfer of 25,000 equity shares to him. However, there was no documentary evidence on record to show that the shares had been transferred to his account. The Respondent brought on record a List of transfer of shares as on 1 November 2008 showing transfer of 25,000 equity shares from Ms. Jatinder Kaur to Mr. Santosh Chetal, duly signed by the Complainant as one of the directors of the company which is effectively after a gap of 5 months. Further, no clarification in this respect is on record either from Ms. Jatinder Kaur or from the company. With respect to the allegation of illegal allotment and transfer of shares, the Board observed that declarations from persons to whom 54,500 equity shares of the company had been allotted had been brought on record by the Complainant stating that they were neither allotted any equity shares of the company nor the shares had been transferred by them to Mrs. Meera Chetal. However, while treating the said declarations as inadequate or non-authentic, no clarification in this respect had been sought either from the said persons or from the company. The copy of Form 208 for the F.Y. 2008-09 had been digitally signed using the digital signature of the Complainant which also carried the email-id of the Respondent and had been digitally certified by the Respondent as a practicing Chartered Accountant. The Board also observed that the Complainant had filed a complaint before the ROC also regarding illegal allotment and transfer of shares and with the police regarding alleged misuse of his digital signature by the Respondent. The copy of the Form 23AC for the F.Y. 2005-06, 2008-09 and 2009-10 and complete Form 208 for the F.Y. 2008-09 which were not provided by the Complainant could also have been brought on record by the Respondent through the company to defend himself in respect of the charge alleged. The Board observed that the instant case is basically regarding fraudulent change in the ownership of a private company wherein the Respondent was associated both as the statutory auditor of the company since its incorporation as well as for ensuing the legal compliances of the company

like ROC filing, maintaining statutory registers of the company, etc. Thus, the Board was of the view that on the basis of documents on record, it cannot be prima facie held that the Respondent is Not Guilty in respect of the charges alleged and his conduct needs to be examined further through enquiry. Accordingly, the Board 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 Item (2) of Part IV of the First Schedule of 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:**

3.

<u>S.No.</u>	<u>Date of Hearing (s)</u>	<u>Status of Hearing (s)</u>
1.	17 <sup>th</sup> May, 2023	Part heard and adjourned.
2.	29 <sup>th</sup> June, 2023	Heard and concluded.

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

**(a) RESPONDENT:**

4.1 The Respondent in his written submissions, inter-alia, stated as under:

- i. The complainant is well aware that all the records allegedly expected to be produced by the Respondent are with the company managed by two directors i.e. the Complainant and other directors fighting with each other praying for the production of record from each other.
- ii. The records have been audited by other professional like CS and concurrent auditors and even inspected by the RBI official, Luxury Tax, GST Tax, PF and ESI every quarter clearly belies the allegations of the complainant.
- iii. The fact that some of the shares allotted to other shareholders in the list of Shareholders running into 38 shares holder from 1999 to have come down to 26 shares holder in 2008 were sharing the same address of the aforesaid shareholders and some of the shares complainant himself have purchased directly from that list and some were purchased by JP Narang from whom Complainant purchased thereafter and got transferred all those shares in its name or in his wife name, as evidently initially he and JPS Narang were holding 50 shares each. How his group holding increased clearly proves that Complainant is making motivated allegations as is evident from the evolution of company capital.
- iv. It is too surprising that if the allotment in 1999 is bogus, share holder must always be in his knowledge as he is claiming in his Company petition and reply that he arranged the capital required to create assets of the company and is further fortified that fact that some of them are still in the list and further increased their holding by buying the shares @990/- are his close friends and signed the settlement in Dec 2014 in which Respondent was not the participant.
- v. It cannot be and is not the case of the complainant after enjoying the bogus application money and creating valuable assets in the form of hotel with said bogus money and running the forex

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exchange business with illegal said application money for last so many years and earning crores of rupees, suddenly the same application money and consequent share allotment have become bogus in the eyes of complainant when the two directors are unable to sort out dispute between themselves and throwing mud on other professionals with any cogent evidence.

- vi. Complainant is making baseless and motivated allegation for extraneous reasons for controlling major valuable assets of the Company i.e. the Hotel Property.
- vii. All the shareholders were duly allotted shares on receipt of allotment money through the banking channels and admittedly existing and were duly verified by not only him but by Company Secretary and concurrent Auditor years after years till 2015 and all the records were duly inspected by the RBI every quarter and other banks while advancing the loan.
- viii. For completing the ROC filing compliances was not the duty of the Chartered Accountant to verify whether the money have exchanged between the two shareholders or not rather that too when the all the directors (two here) are providing the list of shares transferred and list of shareholders and also produced all the records before him. There was no case for him to verify the consideration exchanged between the two shareholders and /or what other consideration were there for transfer of shares between the shareholders. The Respondent verified all the records produced before him, obtained the list of transfers and shareholders list duly signed by both the directors and accordingly uploaded the same on MCA site.
- ix. Application money so raised from time to time outstanding was Rs. 9.50 lakh upto 31.03.2007; Rs. 3.00 lakh upto 31.03.2008; Rs 14.00 lakh upto 31.03.2009; Rs. 40.21 lakh up to 31.03.2010 and Rs 97.42 lakh up to 31.03.2011 and shares were allotted at premium of Rs. 990/- and application money became nil and paid-up capital was Rs. 30,26,950 at the year end of 31.03.2012 belying the story put by the Complainant in para J 14 at page No. D54 and para 6.21-6.22 at page D96 of the PB and is contradictory to Complainant own averments of investment of Rs 60.00 lakh and Rs 19.50 lakh by other petitioner and Rs 102.95 lakh by other unknown persons and its own averment in para J13 at page no. D53 wherein he is saying that respondent no.2 i.e. the complainant raised all the funds in view of its credibility, reputation and networking which herein Complainant says are bogus investors. In the list of remaining allottees for Rs. 1,02,95,000/- in para no. 6.21-6.22 at page No. D 95 – D 96 which Complainant is denying by saying that Respondent don't know who they are whereas they are friends / relatives / known to both the directors and are still the shareholders in the list on record. It is too surprising that Mr. Lalit Vyas and Mr. Sanjay Datta are signatory to the so-called settlement and main mediators in the dispute between these two Directors, Mr. Lalit Vyas has been holding shares since 1999 and Sanjay Dutt has been further allotted shares @1000/- in 2011 but the Complainant says he is not aware about investment of such shareholders.
- X. If the application money was raised from the Complainant's friends and relatives, then how come the allotment of those shares on the said applications is bogus more specifically the 54500 allotted shares in 1999 when the capital was infused to meet the net-worth requirement of the RBI for taking the forex dealing license which as per complainant himself was run by him only. Further the transfer of some of those alleged bogus shares were transferred in the name of other ex-director and his wife, i.e., JPS Narang and Jatinder Kaur Narang and later on in the financial year ending 2008 those shares were further transferred to the Complainant and other Director Santosh Chetal and his wife Meera Chetal. If those shares are held to be bogus in that case the share transferred from JPS Narang to him i.e. the complainant are also transferred from bogus shareholders. In the share transfer list as on 1.11.2008 having the name and address of shares

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holders of 54,500 shares address of the some of the shareholders are also the address of the shareholders who has sold shares to the Complainant/ JPS Narang from whom complainant allegedly have purchased shares which are not under challenge Ref Annex. 3. The present complaint is nothing but the property dispute between the two Directors and all the motivated allegations of misconduct and bogus shareholders etc. are afterthought made against Respondent for extraneous reasons to create documentary evidence in its favour to make a case before the NCLT and to cover up and hide its own wrong doing in running the business and affairs of the company and claim the major shares in the properties and other tangible and intangible assets of the company which is the crux of dispute between both the Directors and malign the Respondent's professional standing earned through hard work and toil.

- xi. Complainant obtained the loan from the SBI for Rs. 3.5 Crore and for the purpose of this, he must have applied and completed the documentation and signature. The Respondent was not engaged for obtaining loan from SBI and even his digital signature have been used by SBI also to create charge with MCA.
- xii. The Complainant is making contradictory assertions in its company petition and its reply before NCLT and in the aforesaid settlement agreement of Dec 2014 whereby he himself is admitting that 40% of property be transferred to other director whereas in its reply to Para 6.62 at page no. D116-117, Complainant has stated that Rs 56 Lacs deposited by other Director with State Bank of India for clearing the loan was actually for the purchase of property from the company, which is contrary to settlement agreement. There is no such condition mentioned in aforesaid settlement placed on record.
- xiii. All allegations for the alleged services and certification of statutory records and allegation of manipulation and forging of the statutory record of the company have been made against the member of this Institute whereas all these works are under domain of the Institute of Companies Secretaries of India (ICSI). All the records alleged to be bogus has been signed, certified, and produced before the Respondent for filing the same with MCA online by the complainant and other director who is petitioner before NCLT in the Company Petition u/s 241 of Companies Act 2013. The aforesaid record is under the power and possession of the Company and/or complainant itself managing the company one of the only TWO working Directors and/or in the possession of another Director in aforesaid CP.
- xiv. The company acting through the only two Directors albeit the entire management is before the NCLT with their respective petitions under different sections of the Company Act with one of the prayers by both of them seeking the record from each other. Respondent was associated with the company and was doing other compliances on behalf of the company like ROC filing as is the normal practice permitted under the guidelines of the ICAI. But it is strongly objected and factually incorrect observation that he was not maintaining statutory records of the company and statutory registers etc. and/or was in any manner associated for making / constructing / maintaining the records and registers etc. of the Company as is evidently clear from the averments and contentions by both the Directors in their respective petitions and reply and documents etc.
- xv. Records for getting the statutory compliances completed was always produced by the both the Directors and their staff albeit sometime individually or sometime both of them jointly used to visit my office and who so ever came to get the compliances done his digital signature were used in ROC filling in their presence only after verifying from the records produced before him and records taken back by the said Director/Directors and their staff. The Respondent is unable to retrieve and produce all the working papers which are supposed to be in his files albeit hampered



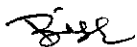
by the time gap of more than 11 years of the alleged periods and 26 years since the inception of the company.

- xvi. The Complainant cannot say that Complainant was not aware of the shareholding pattern despite the fact that Complainant was signing the shareholder list of the company year after year since its inception and ready to pay aforesaid amount and 40% of the property without getting any valuation done by expert or without any advice from any expert. Neither Respondent was present, nor was ever aware, invited or associated with the said meeting and settlement dated 18.12.2014 despite the very fact that as per Complainant, Respondent was the statutory Auditor trusted by both the Directors.
- xvii. On the instructions of the Complainant, the digital signature of the Complainant was obtained by the Respondent. In the subsequent year 2012 he applied for the digital signature as is evident from the enclosed copy of Form sent to digital signature service provider.
- xviii. While the Complainant himself had approached the Respondent for obtaining the digital signatures, the Respondent had hired an external agency to procure the digital signature and therefore, the email id being reflected on the digital signature of Complainant is the email id of the Respondent, which is also the email id of the Company and the said email id in the digital signature is erroneously spelled and of no use to anyone. The email id used in the digital signature produced on record by complainant has been erroneously mentioned as PVRN\_CA@yahoo.co.in whereas his correct email id is PVRN\_CO@yahoo.co.in which clearly proves that email id mentioned in the digital signature is of no use to anyone.

**(b) COMPLAINANT:**

4.2 To substantiate his case, the Complainant in his submissions, inter-alia, stated as under:

- i. The Complainant came to know about the frauds and manipulation in shareholding of the Company only after going through the Company Petition No. 40/241-242/(PB) of 2019 filed by Mr. Santosh Chetal (promoter director cum shareholder of the Company). As per Section 17 of the Limitation Act, 1963 in case of fraud of the defendant or respondent the limitation period shall not begin to run until plaintiff of applicant has discovered the fraud with reasonable diligence. In his case, the complaint is well within the limitation period as Complainant came to know about the frauds and manipulations in the shareholding only after going through the Company Petition No. 40/241- 242/(PB) of 2019 filed by Mr. Santosh Chetal (promoter director cum shareholder of the Company) before the Hon'ble NCLT.
- ii. The Complainant was aghast and amazed to know that Mr. Rajinder Sharma, Mr. Shiv Kumar Lochan, Mr. G. N. Aggarwal, Ms. Prabha Sharma and Mr. Ratan Shwar Prasad were not aware of the purported allotments of shares of Company in their name and also about the subsequent transfer of such shares to Meera Chetal (Wife of Mr. Santosh Chetal). No such purported shareholders have ever applied for any allotment of shares in the Company and nor they have made any payment against such purported allotment. No share certificates have even been issued to such purported allottees. No notice of any Annual General Meeting or Extra-Ordinary General Meeting was ever served to such shareholders from the purported allotment of shares i.e. in 1999 till the purported transfer of shares in 2008.



- iii. Respondent in connivance with Santosh Chetal has received the significant amount through RTGS/NEFT in his personal name and his wife's name i.e., Mrs. Anita Jindal from the bank account of the Company.
- iv. It is very strange to assimilate that the Respondent having experience of more than 38 years certified the list of shareholders without obtaining Share Transfer Deeds from the management of the Company. The list of transfers of 54,500 equity shares and 25,000 equity shares (wrongly transferred to Mr. Santosh Chetal instead of Complainant) was shown as on 01<sup>st</sup> November 2008 annexed with Form 20B for the Financial Year 2008-09. However, after perusal of the Compliance certificate issued by M/S Sanjeev Gupta and Associates, the Complainant was aghast to know that as per the certificate issued by the Company Secretary M/S Sanjeev Gupta and Associates there were no transfer/ transmission of securities during the Financial Year under review.
- v. Since the inception of the Company the legal compliances such as ROC Filing of financial statement and annual returns with Registrar of Companies, maintenance of statutory records (ie. Register of Members, Register of Charges, Minutes of Board Meeting and General Meeting, etc.), Income Tax Filing and other compliances of the Company were carried under the professional guidance and assistance of the Respondent. All the statutory records, documents such as register of members, minutes of board meeting(s) and general meeting(s), share transfer documents and various other statutory registers and records were maintained and were kept under the custody of the Respondent. However, the Respondent in collusion with Santosh Chetal (promoter director cum shareholder of the Company) with malafide intention did not provide any statutory documents and records of the Company even after various follow-ups by the Complainant. Since the Incorporation of the Company the Respondent has been certifying the Forms such as Form 20B (form for filing annual return by a company having as share capital which includes reporting of List of Shareholders, Details of Transfer of Shares held during the year), Form 23AC (Form for filing Balance Sheet, Auditor Report, Director Report).
- vi. All the statutory records and documents of the Company were under the custody of the Respondent.
- vii. The Respondent has not given his resignation as an Auditor to the Board of Directors till date and is still deemed to be continued as the statutory auditor of the Company.
- viii. The Complainant gave a statement to the Authorities including the GST Department in Hindi and the same is annexed. The Complainant is not familiar with the legal, financial and statutory compliances of the Company. The Complainant trusted and relied upon the Respondent for all the compliances of the Company. The Complainant used to sign such returns relying blindly on the faith and trust on Respondent. The Respondent in collusion with Mr. Santosh Chetal has illegally used the digital signature of the Complainant with a sole motive to justify the illegal and illicit transfer of shares in the name of Mr. Santosh Chetal and Mrs. Meera Chetal which is further evident from the time gap of affixing digital signature of the Complainant and the Respondent, Statutory Auditor on Form 20 B filed for the Financial Year 2008-09 which is less than 1 minute. The Respondent in his Written Statement has admitted the fact that the digital signatures of the Complainant were obtained by him. The email id PVRN CO@yahoo.co.in of the Respondent is made on a similar pattern and is identical to the email id PVRN CA@yahoo.co.in. It is clearly evident from the above that both these e-mails are created by one user. The Complainant was not aware about the creation of his digital signatures as for the purpose of verification of the digital signature, the Respondent had given his email id and phone number. The Respondent failed to produce any

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digital signature subscription Form for the relevant period in which the manipulation has taken place.

**OBSERVATIONS OF THE BOARD:**

- 5.1. As regard the first charge, the Board noted that the Complainant brought on record a copy of the acknowledgement receipt dated 3<sup>rd</sup> June 2008 from Ms. Jatinder Kaur on account of selling of 25000 equity shares of the company. The Board also observed that the Complainant brought on record his Bank Statement of Punjab National Bank wherein the transfer of amount to Mrs. Jatinder Kaur to the tune of Rs. 7,25,000/- on 05/06/2008 has been mentioned. The Board also noted that the Complainant and the Respondent brought on record a document showcasing transfer of shares as on 01/11/2008 wherein the document produced by the Complainant does not bear the signature of the Complainant however, the same document produced by the Respondent bears the signature of the Complainant. The table showcasing the transfer of shares which is disputed by the Complainant is as under:

S.No.	Transferred from	F.no.	Transferred to	No. of Shares
16	Rajeev Lochan	3	Meera Chetal	9000
17	G.N. Aggarwal	3	Meera Chetal	9000
18	Prabha Sharma	3	Meera Chetal	9000
19	Rajinder Sharma	3	Meera Chetal	9500
20	Raten Shwar Prasad	3	Meera Chetal	8500
21	Shiv Kr. Tyagi	3	Meera Chetal	9500
22	J.P. Narang	24	Sunil Gulati	45350
23	Jatinder, Kaur	26	Santosh Chetal	25000

- 5.2 The Board observed that it is the case of the Complainant that although the payment for share transferred by Ms. Jatinder Kaur has gone from his bank account, however, shares have not been allotted to him but to the other director of the company. In this regard, the Board observed that the Complainant has not brought on record any Share Transfer Deed executed with respect to the aforesaid transfer of shares to him to reflect that the transaction of share transfer in effect had been complete. The company had appointed M/s Sanjeev Gupta & Associates for the purpose of secretarial audit. Also, the Respondent was associated with the company in the capacity of the Statutory auditor and for ensuring ROC filings. Thus, it did not expressly fall within the scope of work of the Respondent to see whether the transfer of shares, if any had taken place and was duly incorporated in the records of the company and reliance could be placed on the work of the external experts appointed for the said purpose.
- 5.3 The Board also noted that the Respondent expressed his inability in retrieving the old records for working papers of assignments handled by him for a period more than 11 years old.
- 5.4 Thus, looking into the practical difficulty in bringing on record documentary evidence pertaining to the period 2008 coupled with the fact that the charge alleged did not fall within the express scope of work of the Respondent and the absence of any convincing evidence to show that the Respondent had any role to play in the alleged illegal transfer of 25,000 equity shares of the Complainant, the Board held the Respondent Not Guilty in respect of the charge alleged.

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- 5.5 As regard the second charge, the Board noted that the Complainant alleged that the following are the illegal allotment made by the Respondent -

**TABLE A**

S.No	Date of allotment	Name of Shareholder	No of shares
1	18.09.1999	Rajinder Sharma	9,500
2	18.09.1999	Shiv Kumar Tyagi	9,500
3	18.09.1999	Rajeev Lochan	9,000
4	18.09.1999	G.N. Aggarwal	9,000
5	18.09.1999	Prabha Sharma	9,000
6	18.09.1999	Ratan Shwar Prasad	8,500
<b>TOTAL</b>			<b>54,500</b>

The Board further noted that the Complainant alleged the following transfer of shares as illegal -

**TABLE B**

S.No	Date of transfer	Name of Transferor	Name of Transferee	No of shares
1	01.11.2008	Rajinder Sharma	Meera Chetal	9,500
2	01.11.2008	Shiv Kumar Tyagi	Meera Chetal	9,500
3	01.11.2008	Rajeev Lochan	Meera Chetal	9,000
4	01.11.2008	G.N. Aggarwal	Meera Chetal	9,000
5	01.11.2008	Prabha Sharma	Meera Chetal	9,000
6	01.11.2008	Ratan Shwar Prasad	Meera Chetal	8,500
<b>TOTAL</b>				<b>54,500</b>

In this regard, the Board observed that The Companies (Issue of Share Certificates) Rules 1960 states as under:

*"6. Sealing and Signing of Certificate.-*

*Every share certificate shall be issued under the seal of the company, which shall be affixed in the presence of*

*(i) two directors or persons acting on behalf of the directors under a duly registered power-of-attorney ; and*

*(ii) the secretary or some other person appointed by the Board for the purpose. The two directors or their attorneys and the secretary or other person shall sign the share certificate.*

*Provided that, if the composition of the Board permits of it, at least one of the aforesaid two directors shall be a person other than a managing or whole-time director.*

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*Explanation.-For the purpose of this rule, a director may sign a share certificate by affixing his signature thereon by means of any machine, equipment or other mechanical means such as engraving in metal or lithography but not by means of a rubber stamp, provided that the director shall be responsible for the safe custody of such machine, equipment or other material used for the purpose."*

Hence, it is a settled law that the signature of the Directors is an essential requirement in the transfer of the shares. The Board noted that the company since inception had three directors (Complainant being one of them) and one of three directors ceased to be a director with effect from 21<sup>st</sup> November 2008. Thus, the Board was of the view that the stand of the Complainant that the said fact of transfer of shares was not in his knowledge is not acceptable.

5.6 The Board also noted that the Complainant during the course of hearing admitted that he was one of the directors who authenticated the Financial Statements of the company and was also one of the bank authorised signatory of the company.

5.7 Further, the Board noted that the company had appointed M/s Sanjeev Gupta & Associates for the purpose of secretarial audit. Also, the Respondent was associated with the company in the capacity of the Statutory auditor and for ensuring ROC filings. Thus, it did not expressly fall within the scope of work of the Respondent to see whether the allotment and transfer of shares, if any had taken place and was duly incorporated in the records of the company and reliance could be placed on the work of the external experts appointed for the said purpose.

5.8 The Board also noted that the Respondent expressed his inability in retrieving the old records for working papers of assignments handled by him for a period more than 11 years old.

5.9 Thus, looking into the practical difficulty in bringing on record documentary evidence pertaining to the period 2008 coupled with the fact that the charge alleged did not fall within the express scope of work of the Respondent and the absence of any convincing evidence to show that the Respondent had any role to play in the alleged allotment and transfer of 54,500 equity shares of the Company, the Board held the Respondent Not Guilty in respect of the charge alleged.

5.10 As regard the third charge, the Board noted that the Respondent brought on record copy of Form 23AC for the FY 2005-06, 2008-09 and 2009-10, Form 20B for FY 2008-09 which had been filed using the digital signatures of the Complainant. He also brought on record copy of the Form dated 18<sup>th</sup> September 2012 which had been used for obtaining the digital signatures Certificate of the Complainant which did not bear the mobile number and the email id of the Respondent. He also highlighted that the email id used in the digital signature produced on record by the Complainant has been erroneously mentioned as PVRN CA@yahoo.co.in whereas his email-id is PVRN CO@yahoo.co.in.

On the other hand, the Complainant brought on record copy of the Criminal Complaint filed with the SHO, Police Station, Karol Bagh dated 21<sup>st</sup> September, 2019 with a request to file FIR against the Respondent in the instant matter alongwith a Complaint made to DCP, New Delhi District dated 12<sup>th</sup> September, 2019 to take action against the Respondent under the Information Technology Act for the forgery and cyber related offences. The Board further noted that no further update on the said complaint had been brought on record by the Complainant. The Board

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also noted that the Complainant failed to bring on record any conclusive evidence to the effect that his digital signatures had been used by the Respondent without his knowledge. Hence, the Board held the Respondent Not Guilty in respect of the charge alleged.

**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/-

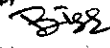
Ms. Dolly Chakrabarty (IAAS, ret'd.)  
(Government Nominee)

Sd/-

CA. Priti Savla  
(Member)

DATE: 07-02-2024

सही प्रतिलिपि होने के लिए प्रमाणित  
Certified to be true copy

  
बिषा नाथ तिवारी / Bishwa Nath Tiwari  
कार्यकारी अधिकारी / Executive Officer  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
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