

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/105/17/DD/175/2017/BOD/427/2018]

CORAM (In Person):

CA. Rajendra Kumar P, Presiding Officer

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

CA. Priti Savla, Member

In the matter of:

Shri Prasenjit Roy, Addnl. Superintendent of Police & Head of Branch

Central Bureau of Investigation,

BS & Fc, Kolkata

1st Floor, 'F' Wing, CGO Complex, DF Block, Sector-1, Salt Lake,

KOLKATA -700 067.

.....Complainant

Versus

CA. Dilip Sayarchand Mehta (M. No. 025422)

101-102, Chartered House,

293/297, Dr. C H Street, Near Marine Lines,

MUMBAI -400 002.

.....Respondent

DATE OF FINAL HEARING : 21st November 2023

PARTIES PRESENT (through video conferencing):

Authorised representative of the

Complainant Department : Sh. M. R. Hajong, Additional Superintendent of Police

Counsel for the Respondent : Sh. S. G. Gokhale, Advocate

FINDINGS:

BRIEF BACKGROUND OF THE CASE:

1.1 The Respondent entered into criminal conspiracy with the other accused persons Shri Pravin Rampratap Tayal and Others to cheat and defraud UCO Bank, Flagship Corporate

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Branch, Kolkata. In pursuance of the said criminal conspiracy, the Respondent floated different shell Companies namely M/s Sulochana Merchantile Co. Pvt. Ltd., M/s Vinimay Merchandising Co. Pvt. Ltd., M/s Babul Trading Pvt. Ltd., M/s Rishi Mercantile Pvt. Ltd. etc. by making two of his employees, Mr. Girishchand R. Yadav and Ms. Sangeeta Sawant as Directors.

- 1.2 The Respondent arranged accommodation bills for a Company namely M/s K. Life Style & Industries Ltd. from his shell Companies for commission showing falsely supply of textile machinery. The said Company had availed a Term Loan of Rs. 100 crores from UCO Bank.
- 1.3 The Companies floated by the Respondent as stated above received amounts from UCO Bank through demand drafts on the basis of bogus bills. After disbursement of term loan of UCO Bank to above supplier Companies, the Respondent arranged to divert the same through bank accounts of some fictitious and non-existent companies by making his said employees as Directors. As per the directions of the Respondent, his said two employees, issued cheques in favour of different textile companies from the bank accounts of the above-named fictitious companies.
- 1.4 One of the accused persons in the case namely, Mr. Pravin Rampratap Tayal, Promoter, Bank of Rajasthan Ltd. arranged the above stated cheque amounts to be credited in certain other Companies namely, M/s Brescon Realty Pvt. Ltd and M/s Brescon Infra Pvt. Ltd. with Bank Of Rajasthan Ltd. without any endorsement from the drawee. Thereafter from the account of these two Companies, the funds of UCO Bank were then diverted to accounts of other Krishna Group Companies. Thus, the Respondent actively participated in the crime of cheating and diversion of funds of UCO Bank.

CHARGE ALLEGED:

The Complainant alleged against the Respondent as under:

2. The crux of allegations against the Respondent is that he was involved in floatation of many shell companies in the name of his employees to defraud UCO Bank and providing accommodation bills to such Companies to earn commission. In this matter, a Charge Sheet was filed against the Respondent and the other accused persons u/s 120B r/w 420 and 471 IPC and Section 120B IPC r/w Sec. 13(2) r/w 13 (1) (d) of P.C. Act, 1988.

BRIEF OF PROCEEDINGS HELD:

3.

S.no.	Date of Hearing(s)	Status of Hearing(s)	Compliance of direction, if any, given by the Board
1.	4 th June, 2019	Hearing adjourned at the request	NA

		of the Respondent.	
2.	26 th June, 2019	<p>Adjourned at the request of the Complainant with the following directions to Office:</p> <ol style="list-style-type: none"> 1. To check role of CA. Vijay Bhandari in the matter. 2. To find out Director(s) of M/s Sulochana Merchantile Co. Pvt. Ltd., M/s Rishi Merchantile Pvt. Ltd., M/s Vinimay Merchandising Co. Pvt. Ltd. and M/s Babul Trading Pvt. Ltd. and call one of the common Directors or a Managing Director as a witness in the next hearing. 3. To download relevant profit and loss account of the Companies from MCA website. <p>To call Shri Mahavir Dugar whose name is appearing in Prima facie opinion at para 6.10 as a witness of the Board in next hearing.</p>	NA
3.	20 th October, 2019	Hearing adjourned at the request of the Respondent.	NA
4.	29 th January, 2021	Hearing adjourned at the request of the Respondent.	NA
5.	24 th August, 2021	Part heard and adjourned with direction to the office to seek the latest address of Ms. Sangeeta J Sawant and Shri Mahaveer Chand Dugar from the Complainant Department so that they may be called as witness along with other witnesses before the Board in its next meeting.	In compliance to the directions, a letter dated 22.09.2021 was sent to the Complainant Department seeking latest address of the above witnesses, however, no reply/response was received from them.
6.	20 th December,	Part heard and adjourned with the	The respondent

	2021	<p>direction to the Respondent to provide the following information/documents:</p> <ol style="list-style-type: none"> 1. The details of the auditors of the companies M/s K. Lifestyle and Industries Ltd., M/s Sulochana Merchantile Co. Pvt. Ltd., M/s Rishi Merchantile Pvt. Ltd., M/s Vinimay Merchandising Co. Pvt. Ltd. and M/s Babul Trading Pvt. Ltd. during the period under question along with the copy of the audit report. 2. The year in which the Respondent conducted the audit of any of the aforesaid companies along with the copy of the audit report. 3. Details of audit conducted, audit report signed by the Respondent during the years under question. 4. Contact details i.e., latest address, mobile no. of Ms Sangeeta, Shri Girish Yadav, Shri Mahaveer and Shri Duggal so that they can be summoned before the Board. 5. Membership number, current address and mobile number of CA. Vijay Bhandari. 6. Current Status of the proceedings before the CBI along with the copy of the Orders passed therein, if any. 7. Confirmation to the effect that although CA. Vijay Bhandari was called for by the CBI, no case was made out against him by CBI. 	submitted his response.
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7.	22 nd June, 2022	Hearing adjourned at the request of the Respondent.	NA
8.	05 th July, 2022	<p>Part heard and adjourned with the direction to the Respondent to submit following documents/information by 24th July, 2022 with a copy marked to the Complainant Department to provide their comments thereon, if any:</p> <p>a. Write-up on the difference in his reply to Question no. 5 in his Statement recorded before the Income Tax Department on 23rd December 2008 (C-28) "vis-vis his reply to Question no. 3 in his Statement recorded before the Income Tax Department on 28th April 2009.</p> <p>b. Copy of the Partnership Deed of M/s Dilip S. Mehta & Co. (113934W)/ any other documentary evidence to substantiate the takeover of his partnership firm by CA. Vijay Bhandari, the mode of takeover, etc.</p> <p>c. Copy of the Income Tax Assessment Order of Mahaveer</p>	The Respondent in compliance of the above directions provided the documents vide email dated 11 th July, 2022.

		<p>Chand wherein commission has already confirmed on his assessment.</p> <p>d. Make efforts to provide the latest address, email id and mobile no. of Ms. Sangeeta Sawant, Mr. Girish Yadav and Mr. Mahaveer Duggar so that the Summon can be issued to them for their examination as a witness.</p> <p>The Board also directed the office to write a letter to CBI requesting to depute any official who is conversant with the facts of the case to appear before it at the next date of hearing/provide documentary evidences to substantiate the allegations alleged against the Respondent.</p>	
9.	28 th July, 2022	<p>Part heard and adjourned with direction to office to provide a copy of the Notes of hearing to both the parties in the case, so, that the right to cross examine the witnesses can be exercised by them at the next date of hearing.</p> <p>The Board asked the Respondent to make efforts to provide the latest address, email id and mobile no. of Mr. Mahaveer Chand Duggar, so, that the Summon can be issued to him for his examination as a witness. The Board further directed the office to summon CA. Vijay Bhandari as a witness before it on the next date of hearing.</p>	In compliance to the above directions, office provided a copy of the Notes of hearing of the meeting held on 28th July, 2022.
10.	29 th November, 2022	Hearing adjourned at the request of the Respondent.	NA

11.	28 th March, 2023	Adjourned at the request of the Complainant Department.	NA
12.	23 rd May, 2023	Part heard and adjourned with the direction to summon Mr. Mahaveer Chand Duggar, Ms. Sangeeta J. Sawant, Mr. Girish Chand R. Yadav and CA. Vijay Bhandari as a witness to depose before the Board at the next date of hearing.	No witness was present before the Board.
13.	31 st August, 2023	Part heard and adjourned with direction to the Complainant Department and Office:- To the Complainant Department: (a) To provide any documentary evidence to establish that the companies under question were floated by the Respondent. Office: (a) To Summon Mr. Mahaveer Chand Duggar, Ms. Sangeeta J. Sawant, Mr. Girish Chand R. Yadav and CA. Vijay Bhandari as a witness to depose before it. (b) To provide a copy of the authorisation filed by the Complainant Department at the time of filing the complaint to the Respondent.	No response received from the Complainant Department.
14.	2 nd November, 2023	Part heard and adjourned with the direction to the following:- To the witness CA. Vijay Bhandari: a. to provide a copy of the partnership deed of the firm in which the Respondent was a	CA. Vijay Bhandari submitted his response vide email dated 16 th November 2023.

		partner with him. To the office: a. To share the deposition of the witness with the Complainant Department.	
15.	21 st November, 2023	Heard and concluded.	NA

BRIEF SUBMISSIONS OF THE RESPONDENT:

4. The Respondent in his defence, inter-alia, stated as under:
- 4.1 The Respondent has never met any of the Directors of M/s-K Lifestyle & Industries Ltd. till date. How the company and its directors can do huge amount of transaction without knowing the Respondent. There must be some connection to do this kind of transaction.
- 4.2 The Respondent purchased the premises which had been given on rent way back in 1999/2000 and it still belongs to him. He has been doing practice since 1999/2000 in these premises and paying regular membership fee from this address. He has not floated any companies.
- 4.3 CA. Vijay Bhandari, who was Statutory Auditor of one of the listed companies and some of the branch of Bank of Rajasthan Ltd, has not been found guilty. It is CA. Vijay Bhandari who contacted Respondent to arrange private limited company on professional fee. CA. Vijay Bhandari who had taken over Respondent's professional practice was partner with 95% share and Respondent with 5% share. He was looking after Respondent's professional practice. Tayal group of companies was not Respondent's client. It was his clients. He used to sit in Respondent's office. If complainant says, documents relating to these companies were found in Respondent's office, then, since CA. Vijay Bhandari used to sit in Respondent's office, he might have kept for auditing and income tax purpose.
- 4.4 The Respondent never raised any accommodation bills from any of the companies mentioned in the complaint. The Respondent did not raise any bogus bills to UCO Bank. The Respondent did not pick up any demand draft from UCO Bank.
- 4.5 During the CBI proceeding, the Respondent came to know that M/s A.F. Khasjiwala & Co. is the statutory auditors of the company M/s K Lifestyle & Industries Ltd. who gave all the certificate to banks.

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- 4.6 The witness Mahaveer Chand Duggar in his Statement given u/s 164 in Metropolitan Magistrate 8th Court in Kolkata has mentioned clearly that CA. Vijay Bhandari who was statutory auditor of Tayal group of companies asked to arrange the private limited companies for Tayal group of companies.
- 4.7 There was survey in his office on 23rd December 2008, assessment was done by Central Circle and no addition was made by Income Tax authorities. The Enforcement of Directorate gave clear chit to him and said that he is not involved in this case.
- 4.8 He did not know who were the auditors of M/s Sulochna Mercantile Co. Pvt. Ltd., M/s Rishi Mercantile Pvt. Ltd., M/s Vinimay mercantile Pvt. Ltd. and M/s Babul Trading Co. Pvt. Ltd. as he had never done audit of these companies. He was not involved in all the above Companies.
- 4.9 There was no further progress in the criminal case filed by CBI. He had applied for discharge from the case. CA. Vijay Bhandari was called for questioning by CBI.

OBSERVATIONS OF THE BOARD:

- 5.1 At the outset, the Board noted that the primary evidence brought on record by the Complainant Department to substantiate their case is the Charge Sheet No. 07/2015 dated 30th December 2015 filed in CBI, BS &FC, Kolkata in which the Respondent is one of the accused along with others together with the copy of the Statement on Oath u/s 132 of the Income Tax Act 1961 of the following persons:

- (a) Respondent
- (b) Ms. Sangeeta J. Sawant
- (c) Shri Girishchand R. Yadav
- (d) Shri Mahaveer Chand Duggar

The Board further noted that the criminal proceedings under question were still in progress and no conclusive Order had been brought on record by the Complainant Department.

- 5.2 Since the deposition of Sh. Girish Chand R. Yadav, Sh. Mahaveer Chand Duggar and Ms. Sangeeta J. Sawant was considered essential by the Board to examine the conduct of the respondent, Summon(s) to appear as a witness were issued to them. Sh. Girish Chand R. Yadav and Ms Sangeeta J. Sawant were present before the Board on 28th July 2022 through video conferencing. The Board posed certain questions to them. The Board provided an opportunity to the Respondent to cross-examine them to which the Counsel for the Respondent stated that presently they do not see that they need to be cross-examined. However, he requested that a copy of the Notes of hearing in the case be provided to him so as to make a final decision on the same. Since none was present on

behalf of the Complainant Department despite the due service of the Notice for hearing and in view of the request of the Counsel for the Respondent, the Board directed the office to provide a copy of the Notes of hearing in the case to both the parties to the case so that the right to cross examine the witnesses can be exercised by them at the next date of hearing. However, on the subsequent date(s) of hearing the said 2 witness(es) were not present and thus, the right to cross examine the said witness(es) could not be exercised by the parties to the case. Accordingly, keeping in view the principle of natural justice, their deposition was not taken on record by the Board while arriving at its Findings.

- 5.3 Also, the deposition of CA. Vijay Bhandari was considered essential by the Board to examine the conduct of the respondent, accordingly, Summon to appear as a witness was issued to him also. He was present before the Board on 2nd November 2023 through video conferencing. The Board posed certain questions to him and asked him to provide a copy of the partnership deed of the firm in which the Respondent was a partner with him. Since the Respondent was not present and his Counsel was present during the hearing, the Board provided an opportunity to him, on behalf of the Respondent to cross-examine the witness which was exercised by him. Since none was present before the Board on behalf of the Complainant Department, the Board directed the office to provide a copy of the Notes of hearing in the case to the Complainant Department so that the right to cross examine the witness can be exercised by them at the next date of hearing. However, on the subsequent date(s) of hearing the witness was not present and thus, the right to cross examine the said witness could not be exercised by the Complainant. Accordingly, keeping in view the principle of natural justice, his deposition was not taken on record by the Board while arriving at its Findings.
- 5.4 The Board further noted that that the Respondent brought on record copy of his Assessment Order for AY 2008-2009 and 2009-2010 in which his rental income was taxed as income from other sources and deduction under Section 24 was disallowed as the Respondent was not the owner of the premises which it had let to Mr. Mahaveer Chand Dugar. The Board also noted that the Complainant Department could not bring on record any Assessment Order to show that Commission income has either been added to the income of the Respondent on account of any accommodation entries provided by him, as alleged or bogus income has been added to the income of the beneficiaries.
- 5.5 Thus, on a detailed perusal of the submissions and documents on record, the Board noted that the Complainant Department has not been able to substantiate its claim that the Respondent was involved in floatation of many shell companies in the name of his employees to defraud UCO Bank and providing accommodation bills to such Companies to earn commission. The Board noted that the primary evidence which the Complainant Department brought on record for the charges alleged against the Respondent is the copy

of the Charge Sheet and the Statement of certain witness(es) which remained uncorroborated. Beyond that, despite opportunities given by the Board to the Complainant Department to substantiate the charges levelled against the Respondent, the Complainant Department failed to bring on record any further evidence to substantiate their case. Accordingly, 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/-

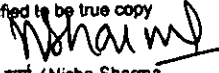
Ms. Dolly Chakrabarty (IAAS, reted.)
(Government nominee)

Sd/-

CA. Priti Savla
(Member)

DATE: 08-02-2024

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


निशा शर्मा / Nisha Sharma
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
नई दिल्ली/अई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
N/A Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

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