



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

[PR/28/2019/DD/75/2019/BOD/607/2022]

ORDER UNDER SECTION 21A(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

In the matter of:-

CA. Saurendra S. Shah (M.No.011027)

M/s S. S. Shah & Co., Chartered Accountants

206, Harikrupa Shopping Centre, Nr. City Gold Cinema, Ashram Road
Ahmedabad-380009.

.... Complainant

-vs-

CA. Samirkumar V. Shah (M.No.159546)

M/s Samir V. Shah & Associates, Chartered Accountants

28, Aryavrat Society, B/H Hatkeshwar Mahadev Maninagar East,
Ahmedabad-380008.

....Respondent

[PR/28/2019/DD/75/2019/BOD/607/2022]

MEMBERS PRESENT (in person)

CA. Rajendra Kumar P, Presiding Officer

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

Date of Hearing: 2nd November 2023

Date of pronouncement of Order: 11th December 2023

1. The Board of Discipline vide its Findings dated **18th August 2023** was of the view that **CA. Samirkumar V. Shah (M.No.159546)** is guilty of "Professional Misconduct" falling within the meaning of Item (8) of Part-I of the First Schedule of the Chartered Accountants Act, 1949.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Samirkumar V. Shah (M.No.159546)** and communication dated 10th October 2023 was addressed to him thereby granting him an opportunity of being heard on 02nd November 2023 which was exercised by him by being present in person before the Board. He confirmed receipt of the Findings of the Board and made his representation before the Board.
3. Since the decision on the quantum of punishment to be awarded to **CA. Samirkumar V. Shah (M.No.159546)** was reserved by the Board, he vide communication dated 8th December 2023 was asked to be present before the Board on 11th December 2023 for the purpose of pronouncement of Order. He was present before the Board through video conferencing on the said date for the said purpose.
4. Thus, upon consideration of the facts of the case, the consequent misconduct of **CA. Samirkumar V. Shah(M.No.159546)** and keeping in view his representation before it and also the fact that he had already been punished in charges of similar nature in a separate case against him, the **Board decided to Reprimand him.**

Sd/-

CA. Rajendra Kumar P
(Presiding Officer)

Sd/-

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

असली प्रतिलिपि होने से साक्ष्य प्रमाणित
Certified to be true copy

अरुण कुमार / Arun Kumar
वरिष्ठ निदेशक (अनुशासन) / Sr. Executive Officer
अनुशासनशासक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आहुतीएआर भवन, निगरा नगर, गांधीदास, दिल्ली-110032
ICAI Bhawan, Udhokar Nagar, Okhla, Delhi-110032

CA Saurendra S. Shah -Vs- CA, Samirkumar V. Shah

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-28/2019-DD/75/2019/BOD/607/2022]

CORAM (present in person):

CA. Rajendra Kumar P, Presiding Officer

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

In the matter of:

CA. Saurendra S. Shah (M. No. 011027),

M/s S. S. Shah & Co.,

Chartered Accountants

206, Harikrupa Shopping Centre,

Nr. City Gold Cinema, Ashram Road

Ahmedabad-380009.

.....Complainant

Versus

CA. Samirkumar V. Shah (M. No. 159546)

M/s Samir V. Shah & Associates,

Chartered Accountants

28, Aryavrat Society,

B/H Hatkeshwar Mahadev

ManinagarEast, Ahmedabad-380008.

.....Respondent

DATE OF FINAL HEARING : 22nd May, 2023

PLACE OF FINAL HEARING : Mumbai

PARTIES PRESENT : None

FINDINGS:

CHARGE ALLEGED:

1. The Charge against the Respondent is that he had accepted the Tax Audit of M/s Yash Marketing (hereinafter referred to as the "Client") for the Financial Year 2017-18 without first communicating with the Complainant, being its previous auditor.

BRIEF OF PROCEEDINGS HELD:

2. The Board noted that neither the Complainant/ his authorised representative was present before it nor was there any intimation as regards his non-appearance despite the due service of the Notice of hearing. The Board further noted that the Respondent had sent an email on 22nd May 2023 i.e., the date of the hearing at about 10:24 AM, expressing his inability to appear before the Board for hearing due to unforeseen circumstances. The Board further noted that he had not requested for any adjournment from the hearing. Thus, in the absence of any specific request for adjournment from the hearing and the case being listed for hearing for the second time, the Board decided to proceed ahead with the hearing in the case ex-parte.

Thus, on consideration of the documents and submissions on record, the Board concluded the proceedings in the case.

BRIEF SUBMISSIONS OF THE RESPONDENT:

3. The Respondent vide his email dated 22nd March 2023 stated that he would like to draw attention to case bearing no. BOD-586-2020 against him. He further stated that BOD-586-2020 and the current three cases BOD-606-2022, BOD-607-2022 and BOD-608-2022 are the same cases. He has conducted all the four audits and the client is also the same. Therefore, the Respondent requested Board to refer to BOD-586-2020 and take necessary action for BOD-606-2022, BOD-607-2022 and BOD-608-2022.

OBSERVATIONS OF THE BOARD:

4. The Board on perusal of the documents on record noted that the Respondent in his submissions made at the Prima Facie Stage stated that he had communicated with the Complainant vide letter dated 15th September 2018, however the letter remained unsigned by mistake. He relied upon the general NOC given by the Complainant vide letter dated 30th December 2017 to the Client that all the assignments till date are completed, nothing was pending from his side, and he is not willing to work due to his growing age. The Board observed that the letter dated 30th December 2017 was



addressed by the Complainant to the client. Further, the unsigned letter dated 15th September 2018 addressed by the Respondent to the Complainant seeking his no-objection was given by the Client to the Complainant on 11th November 2018. Also, the said letter was not signed by the Respondent and thus, cannot be considered to be a valid letter. Further, the Respondent did not bring on record the copy of the Tax Audit Report of the client for the Financial Year 2017-18 to show the date of signing and issuing the Audit Report.

5. The Board observed that in terms of the Code of Ethics 2009, the incoming auditor should always communicate with the retiring auditor in such a manner as to retain in his hands positive evidence of the delivery of the communication to the addressee. In the opinion of the Council, communication by a letter sent "Registered Acknowledgement due" or by hand against a written acknowledgement would in the normal course provide such evidence. However, in the instant case, there was no evidence to show that there was direct communication between the Respondent and the Complainant as regards seeking the later's no-objection. Whatever communication was there, it was through/with the client. The Board was of the view that the Code of Ethics casts the responsibility of communication with the retiring auditor on the incoming auditor and the incoming auditor is not expected to pass on the same to the client. Accordingly, the Board decided to hold the Respondent guilty of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

CONCLUSION:

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

Sd/-


CA. Rajendra Kumar P
(Presiding Officer)

DATE:18-08-2023

Sd/-

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

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


नीलम पुंडीर / Neelam Pundir
वरिष्ठ कार्यवाही अधिकारी / Sr. Executive Officer
अनुशासनशास्त्रक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आर्चीव/आर्वाई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032