



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

[PR/241/2021/DD/260/2021/BOD/685/2023]

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. Rahul Ashok Jain,
M/s Rahul A. Jain & Co. Chartered Accountants,
745, 7th Floor, Ajanta Shopping Centre, Ring Road,
Surat (Gujarat)- 395002.

.... Complainant

-vs-

CA. Saurabh Buchha (M.No.191495)
M/s SBBS & Associates, Chartered Accountants
429, Ajanta Shopping Centre, Near Metro Tower, Ring Road,
Surat (Gujarat)- 395002.

....Respondent

[PR/241/2021/DD/260/2021/BOD/685/2023]

MEMBERS PRESENT (in person):

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

Date of Hearing and passing Order: 11th December 2023

1. The Board of Discipline vide its Findings dated 7th November 2023 was of the view that **CA. Saurabh Buchha (M.No.191495)** 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. Saurabh Buchha (M.No.191495)** and communication dated 8th December 2023 was addressed to him thereby granting him an opportunity of being heard on 11th December 2023 which was exercised by him by being present through video conferencing. He confirmed the receipt of the Findings of the Board and concurred with the same. He also requested the Board to take a sympathetic view in the case.
3. Thus, upon consideration of the facts of the case, the consequent misconduct of **CA. Saurabh Buchha (M.No.191495)** and keeping in view his representation before it, **the Board decided to impose a Fine of Rs.25,000/- (Rs. Twenty Five Thousand only) upon him.**

Sd/-

CA. Rajendra Kumar P
(Presiding Officer)

Sd/-

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

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

Nisha Sharma
निशा शर्मा / Nisha Sharma
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
Sd/Institute of Chartered Accountants of India
आइसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032

CA. Priti Savla
(Member)

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-241/2021/DD-260/2021/BOD/685/2023]

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:

**CA. Rahul Ashok Jain (M. No. 144369)
M/s Rahul A. Jain & Co.
Chartered Accountants
745, 7th Floor, Ajanta Shopping Centre, Ring Road,
Surat (Gujarat) – 395002.**

.....Complainant

Versus

**CA. Saurabh Buchha (M. No. 191495)
M/s S.B.B.S & Associates
Chartered Accountants
429, Ajanta Shopping Centre,
Near Metro Tower, Ring Road,
Surat (Gujarat) – 395002.**

.....Respondent

**DATE OF FINAL HEARING : 23rd May 2023
PLACE OF FINAL HEARING : Mumbai**

PARTIES PRESENT (in person):

**Complainant : CA. Rahul Ashok Jain
Respondent : CA. Saurabh Buchha**

FINDINGS:

CHARGE ALLEGED:

- 1.1 It has been alleged by the Complainant that the Respondent firm did not communicate with him, being the previous Tax auditor for financial years 2017-18 and 2018-19, before

accepting the position as Tax Auditor of a partnership firm namely, M/s Dokari Fashion for FY 2019-20.

- 1.2 The Complainant has also alleged that the Respondent did not perform due diligence while auditing the financial statements of the said firm as the Respondent firm had done the audit and certification of M/s Dokari Fashion without having its audited financial statements and audit report (Form 3CB and 3CD) for last FY 2018-19 with them which was required under Section R320.3.A6 of Code of Ethics (Revised 2019) for complying KYC (Know Your Customer) norms. The Respondent Firm did not even try to approach and obtain the same from him.

The Board noted that the Director (Discipline) in his Prima Facie Opinion held the Respondent prima facie Guilty of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 only in respect of the charge specified at para 1.1 above and the said view had been accepted by the Board. Accordingly, the conduct of the Respondent was examined in respect of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 only in respect of the charge specified at para 1.1 above.

BRIEF OF PROCEEDINGS HELD:

2.

S.no.	Date of hearing(s)	Status
1.	23 rd May 2023	Heard and concluded.

BRIEF SUBMISSIONS OF THE RESPONDENT:

3. The Respondent in his defence, inter-alia, submitted as under:
- 3.1 The Respondent tried to communicate on premises mentioned i.e., 745, Ajanta Shopping, Centre, Ring Road, Surat but it was found that there was some different Board with name "CA. S Gulgulia and Associates".
- 3.2 The receipt got misplaced due to Covid and remote working. The same is not available and he accepts his mistake on that part and apologised for the same. He assured that the same will not happen in future prospects.

OBSERVATIONS OF THE BOARD:

- 4.1 As regard the charge that the Respondent did not communicate with the Complainant in writing before accepting the position as Tax Auditor of M/s Dokari Fashion for F.Y. 2019-20 as he was the auditor of said entity / firm for previous years i.e. FYs 2017-18 and 2018-19, the Board took into view the requirement of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 which provides as under:

"A Chartered Accountant in practice shall be deemed to be guilty of Professional Misconduct, if he-

Accepts a position as auditor previously held by another Chartered Accountant or a certified auditor who has been issued Certificate under the Restricted Certificate Rules, 1932 without first communicating with him in writing."

The Board observed that there are two essential requirements under Item (8) of Part I of the First Schedule to The Chartered Accountant Act, 1949 which are as follows:

- i. The communication should be prior to the acceptance of the appointment as auditor.
- ii. The communication should be in writing.

The Board further noted that in the said context, the Code of Ethics – 2009 also provides as under:

"Members should therefore communicate with a retiring auditor in such a manner as to retain in their 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."

- 4.2 In the instant case, the Board noted that the Respondent informed that he had sent the alleged letter / written communication dated 01.01.2021 to the Complainant by courier on 02.01.2021 but failed to provide any courier receipt for the same as the same got misplaced.
- 4.3 The Board further noted that as per the member's / firm's data on SSP portal of ICAI the office of the Respondent firm and the Complainant firm is situated in the same building, but on a different floor, i.e. the Complainant firm's office is on 7th floor and the Respondent firm's office is on 4th floor. Thus, the Respondent could have easily communicated with the Complainant through hand delivery before accepting the Tax audit of M/s Dokari Fashion for the FY 2019-20.
- 4.4 The Board also noted that the Respondent during the course of hearing himself accepted that he is at fault that he sent the letter to the Complainant seeking his no objection

through courier and not through the Registered post and he might have forgotten to communicate with the previous auditor by having served the letter seeking his no objection through hand delivery by simply going to his office which is situated in the same building and taking a stamp/seal of his office on the said letter.

- 4.5 Thus, in view of the admission by the Respondent and the submissions and documentary evidence on record, the Board viewed that the Respondent has failed to communicate with the Complainant being the previous auditor before acceptance of the Tax audit of the firm for the FY 2019-20 in the manner as stated in the provisions of Item (8) of Part I of First Schedule of the Chartered Accountants Act, 1949 and is thus held guilty in respect of the charge alleged.

CONCLUSION:

5. 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.

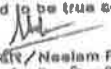
Sd/-
CA. Rajendra Kumar P
(Presiding Officer)

Sd/-
Ms. Dolly Chakrabarty (IAAS, retd.)
(Government Nominee)

Sd/-
CA. Priti Savla
(Member)

DATE: 07-11-2023

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नीलम पुंडीर / Neelam Pundir
संयुक्त कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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