



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

[PR/170/2021/DD/155/2021/BOD/691/2023]

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. Amit Amol Lomte (M. No.133298)

E-4/304, Shiv Sagar Residency, Opp. Saraswat Bank, Anand Nagar  
Sinhgad Road, Pune, Maharashtra-411051.

..... Complainant

-vs-

CA. Piyush Omprakash Singh (M.No.145401)

Office No. 403, Bldg B Zone, Near Vijay Sales,  
Pune-Mumbai Highway, Chinchwad, Pune-411019.

...Respondent

[PR/170/2021/DD/155/2021/BOD/691/2023]

MEMBERS PRESENT (in person):

CA. Rajendra Kumar P, Presiding Officer

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

CA. Priti Savla, Member

Date of Hearing and passing Order: 11<sup>th</sup> December, 2023

1. The Board of Discipline vide its Findings dated 26<sup>th</sup> October 2023 was of the view that CA. Piyush Omprakash Singh (M.No.145401) 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. Piyush Omprakash Singh (M.No.145401) and communication dated 8<sup>th</sup> December 2023 was addressed to him thereby granting him an opportunity of being heard on 11<sup>th</sup> December 2023 which was exercised by him by being present through video conferencing. He confirmed receipt of the Findings of the Board. The Respondent, in reply to the Findings of the Board, reiterated the submissions made before the Board during the course of hearing.
3. Thus, upon consideration of the facts of the case, the consequent misconduct of CA. Piyush Omprakash Singh (M.No.145401) 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, retd.)  
(Government Nominee)

Sd/-

CA. Priti Savla  
(Member)

सही प्रतिलिपि होने के लिए प्रमाणित  
Certified to be true copy

मीनू गुप्ता / Meenu Gupta  
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer  
अनुशासनात्मक विभाग / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032  
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

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-170/2021-DD/155/2021/BOD/691/2023]**

**CORAM (present in person):**

**CA. Rajendra Kumar P, Presiding Officer  
Ms. Dolly Chakrabarty (IAAS, ret'd.), Government Nominee  
CA. Priti Savla, Member**

**In the matter of:**

**CA. Amit Amol Lomte (M. No.133298)  
E-4/304, Shiv Sagar Residency,  
Opp. Saraswat Bank, Anand Nagar,  
Sinhgad Road, Pune,  
Maharashtra-411051.**

**.....Complainant**

**Versus**

**CA. Piyush Om Prakash Singh (M. No.145401)  
Office No. 403, Bldg B Zone,  
Near Vijay Sales,  
Pune-Mumbai Highway, Chinchwad,  
Pune-411019.**

**.....Respondent**

**DATE OF FINAL HEARING : 23<sup>rd</sup> May, 2023  
PLACE OF FINAL HEARING : Mumbai**

**PARTIES PRESENT (in person):**

**Complainant : CA. Amit Amol Lomte  
Respondent : CA. Piyush Omprakash Singh  
Counsel for the Respondent : CA. Sukanya Singh**

**FINDINGS:**

**BRIEF FACTS OF THE CASE:**

1. The Complainant was appointed as the Statutory Auditor of M/s. Hatchway Windsor Private Limited (hereinafter referred to as the 'Company') for the Financial Year 2019-20. The Complainant was the Statutory Auditor of the Company till 31<sup>st</sup> March 2019 and his fees for the audit work carried out for the Financial Year ended on 31<sup>st</sup> March 2019 was outstanding.

**CHARGE ALLEGED:**

- 2.1 The Respondent signed the Statutory Audit report of the company for the year ended 31<sup>st</sup> March 2020 without obtaining no-objection from the Complainant being its previous auditor.
- 2.2 The Respondent accepted the audit of the Company for FY 2019-20 without ascertaining that the Complainant's fees for the audit work carried out for the Financial Year ended on 31<sup>st</sup> March 2019 were settled / paid by the Company.

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 with respect to the charge specified at para 2.1 above and the said view had been accepted by the Board. Accordingly, the conduct of the Respondent was examined in respect of the charge specified at para 2.1 above only.

**BRIEF OF PROCEEDINGS HELD:**

3.

Date of Hearing(s)	Status
23 <sup>rd</sup> May 2023	Heard and concluded.

**BRIEF SUBMISSIONS OF THE RESPONDENT:**

4. The Respondent in his submissions, inter-alia, submitted as under:
  - 4.1 The Respondent have had multiple instances where, he had to obtain NOC from previous auditor. He hasn't failed in his duty to do so (to obtain NOC from previous auditor) a single time. This time the situation was altogether different. It was COVID and he was

working in 50% capacity. The Respondent had called for information from the client to post a Letter of NOC vide RPAD to the previous auditor. But due to inadvertent mistake made by Respondent's office assistant by posting it by general post this issue has aroused.

- 4.2 After coming to know that it was not received by post, the Respondent had emailed to the Complainant asking for his objections, if any. However, since his outstanding dues were cleared before Respondent's signing and he was under impression that his NOC has reached Complainant's office and no reply received within 15 days, the Respondent had signed the Audit Report.
- 4.3 There is no requirement for an auditor to secure a no objection from the previous auditor. The only requirement is that the Chartered Accountant, who accepts the position as an auditor, must communicate with the previous auditor about the same.
- 4.4 The first such communication was sent from client in August 2020 to the Respondent for his intention of appointing him as a statutory auditor. The Respondent's client also had communicated to the previous auditor i.e., Complainant. No CA will share ID and Password of client if he had fees pending from Respondent's client. Statutory Audit Fees were cleared on 10/09/2020 Rs.1,00,000/-. Also details to post NOC to previous auditor were obtained from Respondent's client on 29/09/2020.
- 4.5 The Respondent had sent NOC to the Complainant dated 27/10/2020. However, inadvertently his office assistant posted the same by general post instead of RPAD. This was an inadvertent error and with no intention otherwise. The Respondent's office is located in Kuruli Chakan Location, which is a remote area and post office functioning is not like City Standards.
- 4.6 Hence, there was no wrong intention and efforts were made to initiate the process of obtaining NOC and so also the NOC was sent by Respondent's office assistant inadvertently by general post. The Respondent waited for 15 days and as there was no objection communication from the previous CA, he undertook the assignment and completed the Tax Audit and Statutory Audit of his client.



- 4.7 The Respondent also referred to para 2.14.1.8 (i) from Code of Ethics Volume II (Revised 2020) Page 64 for the intention behind the provision of obtaining no-objection, which provides as under:

*" is to have an opportunity to know the reasons for the change in order to be able to safeguard his own interest, the legitimate interest of the public and the independence of the existing accountant. It is not intended, in any way, to prevent or obstruct the change. It should primarily find out whether there are any professional or other reasons why he should not accept the appointment.*

*...Where temperaments clash or the client has some good reasons to feel dissatisfied. In such cases, the retiring auditor should always accept the situation with good grace."*

**OBSERVATIONS OF THE BOARD:**

- 5.1 As regard the charge that the Respondent signed the Statutory Audit report of the company for the year ended 31<sup>st</sup> March, 2020 without obtaining no-objection from the Complainant being its previous auditor, 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 of the company.
- ii. The communication should be in writing.

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Further, as regard the 'Positive Evidence of Delivery', the Code of Ethics, Volume -II, provides as under:

2.14.1.8(x) *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, the following would in the normal course provide such evidence: -*

- (a) Communication by a letter sent through "Registered Acknowledgement due", or*
- (b) By hand against a written acknowledgement, or*
- (c) Acknowledgement of the communication from retiring auditor's vide email address registered with the Institute or his last known official email address, or*
- (d) Unique Identification Number (UDIN) generated on UDIN portal (subject to separate guidelines to be issued by the Council in this regard)"*

The Board thus noted that as per this provision a member shall communicate with a retiring auditor in such a manner as to retain in their hands positive evidence of communication to the addressee. The Board noted that it is an admitted fact that the Respondent sent the letter dated 27<sup>th</sup> October 2020 seeking the no objection of the Complainant through general post instead of 'Registered post acknowledgement due'.

5.2 The Board also noted that in the year 2020, considering the constraint in communication due to Covid an announcement was issued by the Institute of Chartered Accountants of India on 01.05.2020 wherein communication by way of e-mail was made a valid mode of communication provided an acknowledgment of such communication is received from the retiring auditor's e-mail address registered with the Institute or his last known official e-mail address. The Board further noted that the Respondent vide his e-mail dated 13.03.2021 communicated to the Complainant asking for his no objection which was responded by the Complainant, but no clearance was given. The said e-mail communication of the Respondent was after the signing of the Statutory audit report of the Company by the Respondent on 30<sup>th</sup> December 2020. Therefore, the Board was of the view that as per the provisions of the Code of Ethics, an incoming auditor before the acceptance of audit shall communicate with a retiring auditor in such a manner as to retain in their hands positive evidence of communication to the address which the

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respondent failed to ensure in the instant case. Accordingly, the Board held the Respondent Guilty in respect of the charge alleged.

**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)

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

Sd/-  
CA. Priti Savla  
(Member)

DATE: 26-10-2023

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Certified to be true copy

*M Gupta*

मीनू गुप्ता / Meenu Gupta  
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer  
अनुशासन-सम्बन्धित विभाग / Disciplinary Directorate  
इंस्टीट्यूट ऑफ चार्टर्ड अकाउंटन्ट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
असंजीवनी मार्ग - E-1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000