



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

[PR-396/2019/DD-11/2020/BOD/648/2022]

**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. G.S. Budyal (M. No. 040988)**

M/s G.S. Budyal & Co.

Chartered Accountants

Kshirasagar Complex, 1st floor, Ameer Talkies Road

**BIJAPUR – 586101.**

.....Complainant

Versus

**1) CA. Joshna Sujit Bhattad (M. No. 126849)**

M/s Joshna & Company

Chartered Accountants

Business House, Second Floor, 747, West Mangalwar,

**SOLAPUR – 580029.**

..... Respondent no.1

**2) CA. Sheetal Pankaj Kumar Kothari (M.No. 136438)**

Erstwhile partner of M/s Joshna & Company

C/o Sheetal Kothari and Company

Chartered Accountants

Naikwadi Nagar, Samja Colony, Behind Parees Hospital

**OSMANABAD – 413501.**

.....Respondent no.2

[PR-396/2019/DD-11/2020/BOD/648/2022]

**MEMBERS PRESENT (through video conferencing):**

**CA. Rajendra Kumar P, Presiding Officer**

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

**CA. Priti Savla, Member**

**Date of Hearing and passing Order: 17<sup>th</sup> December 2023**

1. The Board of Discipline vide its Findings dated 18<sup>th</sup> August 2023 was of the view that **CA. Joshna Sujit Bhattad (M. No. 126849)** and **CA. Sheetal Pankaj Kumar Kothari (M.No. 136438)** are **GUILTY** of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Joshna Sujit Bhattad** and **CA. Sheetal Pankaj Kumar Kothari** and communication dated 11<sup>th</sup> December 2023 was addressed to them thereby granting them an opportunity of being heard on 17<sup>th</sup> December 2023 which was exercised by them by being present through video conferencing. They confirmed receipt of the Findings of the Board. They also requested the Board to take a sympathetic view in the case keeping in view the fact that it is their first mistake.



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3. Thus, upon consideration of the facts of the case especially that the audit in question was the concurrent audit of the Bijapur/Vijayapur branch of the bank wherein the appointment was for a fixed term by the appointing Authority and neither the Complainant nor the Respondent had any role to play in the same, the consequent misconduct of **CA. Joshna Sujit Bhattad (M. No. 126849)** and **CA. Sheetal Pankaj Kumar Kothari (M.No. 136438)** and keeping in view their representation before it, the Board decided to impose a Fine of Rs.10,000/- (Rs. Ten Thousand only) upon each one of them and also warned them to be more cautious in future in complying with the Rules and the Regulation of ICAI.

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

  
नीलम पुंडीर / Neelam Pundir  
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer  
अनुशासनात्मक विदेशालय / Disciplinary Directorate  
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
आर्बर्स/एमआई नवन, विश्वास नगर, शाहदरा, दिल्ली-110032  
ICAI Bhawan, Vishwas Nagar, Shahdara, 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-396/2019/DD-11/2020/BOD/648/2022]**

**CORAM: (Present in Person)**

**CA. Rajendra Kumar P, Presiding Officer**

**Smt. Dolly Chakrabarty, IAAS, retd., Government Nominee**

**CA. Priti Savla, Member**

**In the matter of:**

**CA. G.S. Budyal (M. No. 040988)**

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**Versus**

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Business House, Second Floor

747, West Mangalwar,

SOLAPUR – 580029.

..... Respondent no.1

**2) CA. Sheetal Pankaj Kumar Kothari (M.No. 136438)**

Erstwhile partner of M/s Joshna & Company

C/o Sheetal Kothari and Company

Chartered Accountants

Naikwadi Nagar, Samja Colony,

Behind Parees Hospital

OSMANABAD – 413501.

..... Respondent no.2

DATE OF FINAL HEARING : 28<sup>th</sup> March, 2023  
PLACE OF FINAL HEARING : Mumbai

**PARTIES PRESENT:**

Complainant : CA. G. S. Budyal  
Respondent No. 1 : CA. Joshna Bhattad (M. No. 126849)  
Respondent No. 2 : CA. Sheetal Kothari (M. No. 136438)

**FINDINGS**

**CHARGE ALLEGED:**

1. The Complainant was the Concurrent auditor of Bijapur / Vijayapur Branch of "Solapur Janata Sahakari Bank Limited" (hereinafter referred to as "Bank") for the Financial Year 2017-18. The Complainant has alleged that the Respondent Firm has accepted the position as Concurrent auditor of the said Bank for the Financial Year 2018-19 without obtaining no objection from him.

**BRIEF OF PROCEEDINGS HELD:**

2. The Board at its meeting held on 28<sup>th</sup> March 2023 noted that the Complainant and Respondent no. 1 and Respondent no. 2 were present before it in person. Thereafter, the Complainant and Respondent no. 1 and Respondent no. 2 were put on oath. On being asked by the Board whether Respondent no. 1 and Respondent no. 2 pleaded guilty in respect of the charges alleged against them, they replied in negative and made detailed oral submissions to defend on the charges alleged against them. The Complainant also submitted oral submissions in support of the allegations made against Respondent no. 1 and Respondent no. 2.  
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(s) in their defense, inter-alia stated as under:
  - a) The term of appointment from the bank was for a fixed term of one year for each branch of the Bank. Accordingly, the term of earlier Auditors ceased on completion of one year i.e. on 31/03/2018. As the term of earlier auditor i.e. the Complainant ceased on 31/03/2018, the Bank appointed the Respondent as concurrent auditors for the period 2018-19 as per the regular practice of the Bank to change the audit firm.

- b) The fees of the previous auditor i.e. the Complainant was fully paid by the Bank for the appointment term 2017-18.
- c) The Respondent had personally met the Complainant and spoke orally about the appointment in the Bank as the concurrent auditors of the firm after accepting the assignment, but no written document was made by the Respondent with the Complainant and the Complainant had not objected to the same initially. However, he filed the complaint before the ICAI.
- d) The Bank had not conveyed the name of the Complainant i.e. the previous auditor in the appointment letter dated 13/06/2018.
- e) The branches are allotted on rotational basis every year so inadvertently the NOC was not taken by the Respondent. It was not done intentionally.

**OBSERVATIONS OF THE BOARD:**

4.1 The Board noted that the Respondent firm was appointed as the Concurrent Auditor of the Bijapur / Vijayapur Branch of the Bank for the F.Y. 2018-19 vide appointment letter dated 13/06/2018. The Complainant vide letter dated 24/10/2018 addressed to the Respondent had informed the Respondent that his Firm is subject to peer review of the Institute due to which request for NOC request letter must be issued by them to the Complainant. On receipt of no response, the Complainant once again informed the Respondent vide letter dated 07/09/2019 to issue the NOC request letter and on failure to do the same, the Complainant will take recourse of the Institute stating that the Respondent accepted the audit of the Bank without obtaining NOC from the previous auditor i.e., the Complainant.

4.2 The Board further noted that the Complainant brought on record four signed Concurrent Audit half-quarterly report of the Bank which establishes the fact that the Complainant was the previous auditor of the Bijapur / Vijayapur Branch of the Bank for the F.Y. 2017-18. The Bank vide email dated 14/05/2021 submitted four Concurrent Audit half-quarterly reports of the Bank signed by the Respondent no.1 which establishes that the Respondent firm was the Concurrent Auditor of the Bijapur / Vijayapur Branch of the Bank for the F.Y. 2018-19.

4.3 The Board was of the view that in respect of the charge of non- communication with the previous auditor, the following relevant paras of Code of Ethics – 2009 issued by ICAI merit consideration:

*A Chartered Accountant in practice shall be deemed to be guilty of professional misconduct, if he-*

*“Clause (8) of Part-I of the First Schedule: 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”*

Thus, it signifies that the 'Incoming auditor should not accept a position as auditor previously held by another Chartered Accountant without first communicating with him in writing'.

Besides this, the Code of Ethics for the Chartered Accountants also provides as under:

*'It must be pointed out that professional courtesy alone is not the major reason for requiring a member to communicate with the existing accountant who is a member of the Institute. It is not intended, in any way, to prevent or obstruct the change. When making the enquiry from the retiring auditor, the one proposed to be appointed or already appointed should primarily find out whether there are any professional or other reasons why he should not accept the appointment. The underlying objective is that the member may 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.'* (emphasis added)

The above paras clearly explain the real purpose of the communication to be done by the incoming auditor with the previous auditor.

Further, the Council of ICAI has laid certain Guidelines as mentioned in Para -1 and Para - 4 of Page no. 166 and 167 of Code of Ethics – 2009 which read as below:

***"The requirement for communicating with the previous auditor being a Chartered Accountant in practice would apply to all types of audit viz., statutory audit, tax audit, internal audit, concurrent audit or any other kind of audit."*** (emphasis added)

*"The term "previous auditor" means the immediately preceding auditor who held same or similar assignment comprising same/similar scope of work."*

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From the above provisions, it is clear that Item (8) of Part I of First Schedule of the Chartered Accountants Act, 1949 read with Code of Ethics – 2009 casts a clear-cut duty on the incoming auditor to communicate with the previous auditor and further, according to above Guidelines, the communication is required to be made in case of Concurrent Audit too.

4.4 The Board noted that Respondent(s) admitted to the fact that they did not send a written communication to the Complainant prior to the acceptance of the Concurrent Audit of the Bijapur / Vijayapur Branch of the bank for the F.Y. 2018-19. They said that the communication was oral in a personal meeting which was also specifically denied by the Complainant. The Board also noted that the Concurrent Audit Reports of the Bijapur / Vijayapur Branch of the bank for the F.Y. 2018-19 had been signed by the Respondent no.1 and the Respondent no.2 was a partner of the Respondent firm at the time of the acceptance of audit. Thus, in view of the clear cut admission by the Respondent(s), the Board viewed that the

Respondent(s) have clearly failed to communicate with the previous auditor before acceptance of the Concurrent audit of the Bijapur / Vijayapur Branch of the bank for the FY 2018-19 and are thus 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:**

5. Thus, in conclusion, in the considered opinion of the Board, the Respondent no. 1 and Respondent no.2 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, rettd.)  
(Government Nominee)

Sd/-  
CA. Priti Savla  
(Member)

DATE: 18-08-2023

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Certified to be true copy

मीनू, गुप्ता / Meenu Gupta  
प्रमुख कार्यकारी अधिकारी / Sr. Executive Officer  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
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