



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

[PR-250/2019-DD/326/21/BOD/664/2022]

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. Surjeet Singh Walia (M. No. 081561)
M/s ASRN & Associates
Chartered Accountants
608, Padma Tower-1, Rajindra Place
New Delhi.

..... Complainant

Versus

CA. Hira Jha (M. No. 097069)
M/s Hira Jha & Co.
Chartered Accountants
4675/21, FFF-3, Ganpati Bhawan, Ansari Road, Darya Ganj
New Delhi.

..... Respondent

[PR-250/2019-DD/326/21/BOD/664/2022]

MEMBERS PRESENT (through video conferencing):

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

Date of Hearing and passing Order: 17th December 2023

1. The Board of Discipline vide its Findings dated 7th November 2023 was of the view that **CA. Hira Jha (M. No. 097069)** 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.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Hira Jha** and communication dated 12th December 2023 was addressed to him thereby granting him an opportunity of being heard on 17th December, 2023 which was exercised by him by being present in person before the Board. He confirmed the receipt of the Findings of the Board. He also requested the Board to take sympathetic view in the case.
3. Thus, upon consideration of the facts of the case, the consequent misconduct of **CA. Hira Jha (M. No. 097069)** 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, rettd.)
(Government Nominee)

Sd/-

CA. Priti Savla
(Member)

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

मीनू गुप्ता / Meenu Gupta
उपनिवेश निदेशक / Br. Executive Officer
अनुशासन निदेशक / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आदर्श भवन, विशाल 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-250/2019-DD/326/21/BOD/664/2022]

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. Surjeet Singh Walia (M. No. 081561)
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M/s Hira Jha & Co.
Chartered Accountants
4675/21, FFF-3, Ganpati Bhawan, Ansari Road, Darya Ganj
New Delhi.

..... Respondent

DATE OF FINAL HEARING : 16th May 2023

PLACE OF FINAL HEARING : New Delhi

PARTIES PRESENT:

Complainant : CA. Surjeet Singh Walia
Respondent : CA. Hira Jha

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FINDINGS:

BRIEF BACKGROUND OF THE CASE:

1. The Complainant Firm was appointed as the Statutory Auditor of 'M/s Praveen Roadlines Private Limited' (hereinafter referred to as 'Company') for a period of five years, starting from the Financial Year 2014-15. After completing the audit for financial year 2016-17 on 28th August, 2017, a copy of notice dated 28.08.2017 for the AGM of the Company to be held on 28th September, 2017 was received, wherein the Agenda of the meeting includes the ratification of the appointment of the Complainant Firm as the auditor of the Company. After ratification of appointment, the Complainant came to know that the audit for the financial year 2017-18 was completed by the Respondent.

CHARGE ALLEGED:

2. The Respondent accepted the position of Statutory Auditor of the Company and has completed the audit of the Company for financial year 2017-18 without doing any previous communication or without informing the Complainant, being its previous statutory auditor.

BRIEF OF PROCEEDINGS HELD:

3.	<table border="1"><thead><tr><th>S.no.</th><th>Date of hearing(s)</th><th>Status</th></tr></thead><tbody><tr><td>1.</td><td>16th May 2023</td><td>Heard and concluded.</td></tr></tbody></table>	S.no.	Date of hearing(s)	Status	1.	16 th May 2023	Heard and concluded.
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1.	16 th May 2023	Heard and concluded.					

BRIEF SUBMISSIONS OF THE RESPONDENT:

4. The Respondent in his defence, inter-alia, stated as under:
 - 4.1 The Respondent was appointed as a statutory auditor by the Company vide Annual General Meeting for 2017 Notice dated 28th August 2017 and AGM dated 29th September 2017 however, two separate notices of AGM on same date wherein different Agendas were mentioned signed by same Director of the Company and it was the case of misrepresentation of the facts made by the Company. The Respondent accepted the appointment of the Company in good faith.

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- 4.2 The Respondent had sent the No objection letter dated 28th August 2017 physically. Due to his health issue, he was hospitalized twice and there was no communication made through Registered AD, it was a lapse on the part of his staff.
- 4.3 The Respondent accepted his mistake for not following the right process of communication i.e. by Registered Post AD.

OBSERVATIONS OF THE BOARD:

- 5.1 As regard the charge that the Respondent did not communicate with the Complainant, being the previous auditor, in writing before accepting the position as Statutory Auditor of the company for F.Y. 2017-18, 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."

- 5.2 The Board noted that the Complainant was the Statutory Auditor of the Company for financial year 2016-17. Further, on perusal of the Notice of annual general meeting dated

28th August, 2017, to be held on 28th September, 2017 and the ratified appointment letter addressed to the Complainant, the Board noted that the Complainant was reappointed as the Statutory Auditor of the Company for the financial year 2017-18. Also, the Respondent brought on record a letter dated 28.08.2017 seeking no objection of the Complainant before accepting the position as the Statutory Auditor of the Company. The Respondent also brought on record the extracts of emails dated 11.12.2017, 07.11.2017, 15.12.2021 and 10.12.2021 exchanged with the Complainant with regard to his appointment which were done after his appointment i.e., after 29th September, 2017.

The Board noted that the Respondent could not bring on record any positive evidence or proof of delivery of the communication dated 28th August 2017 sent by him to the Complainant seeking his no-objection.

5.3 The Board also noted that the Respondent in his written submissions and also during the course of hearing accepted his mistake for not following the right process of communication with the Complainant.

5.4 Thus, in view of the admission by the Respondent and the submissions and documentary evidence on record, the Board viewed that the Respondent failed to bring on record any positive evidence of communication with the Complainant being the previous auditor before acceptance of the Statutory audit of the company for the FY 2017-18 and is thus held 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, retd.)
(Government Nominee)

Sd/-

CA. Priti Savla
(Member)

DATE: 07-11-2023

सही प्रतिलिपि होने के लिए प्रमाणित /
Certified to be true copy
निशा शर्मा / Nisha Sharma
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनमयक निदेशालय / Disciplinary Directorate
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