

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-G-221/2017-DD/235/2017/BOD/458/2018]**

**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:**

**Shri Bhogendra Prasad**  
ADIT (Inv), Unit-3 (4),  
2nd Floor, Aayakar Bhawan, Annexe Building  
P-13, Chowringhee Square,  
KOLKATA – 700069.

.....Complainant

**Versus**

**CA. Rajesh Kumar Agrawal... (M. No. 060077)**  
18, Giri Babu Lane, 1st Floor, R.No. 1D,  
KOLKATA – 700012.

.....Respondent

**DATE OF FINAL HEARING : 28<sup>th</sup> July 2023**  
**PLACE OF FINAL HEARING : Kolkata**

**PARTIES PRESENT (In person):**

**Authorised representative of the Complainant Department : Shri Manesh Kumar Gupta,**  
**ADIT (Inv.), Unit 3(4), Kolkata**  
**Counsel for the Respondent : CA. A. P. Singh**

**FINDINGS:**

**CHARGE ALLEGED:**

1. The Respondent formed various papers/shell entities/Companies for sole purpose of providing pre-arranged accommodation entries of share capital, share premium and unsecured loans.

**BRIEF OF PROCEEDINGS HELD:**

2.

S. No.	Dates of Hearing(s)	Status of Hearing(s)	Compliance of direction, if any, given by the Board
1.	31st May, 2019	Hearing adjourned on account of non-representation from the Complainant Department.	-----
2.	16th August, 2019	<p>Part-heard and adjourned with the direction to Office and the Respondent to provide the following documents/information:</p> <p>From the Respondent:            (i) Whether the Respondent is/ was Director of any Company till date.            (ii) DIN no. of the Respondent.</p> <p>To the office:            (i) To check registered address of M/s Intellectual Securities Pvt. Ltd. , M/s Sirohi Home Products Pvt. Ltd. and M/s Polson Tie-up Pvt. Ltd.            (ii) To check who were the directors of these companies along with their addresses during financial years 2009-10 and 2010-11.</p> <p>The Board also directed the office to write to Chairman, CBDT about non-appearance of any officer from the Complainant Department and request for arranging of their appearance at the time of next hearing.</p>	<p>The Respondent sent an mail dated 17<sup>th</sup> August, 2017 with the following information:</p> <p>i. The Respondent was not an Auditor or Shareholder or Director of the following Companies:            - Polson Tie-Up Private Limited, Sirohi Home Products Private Limited and Intellectual Securities Private Limited            ii. The Respondent confirmed that none of his family members have been Auditor or Shareholder or Director of the above-mentioned Companies.</p>
3.	25th September, 2019	<p>Part-heard and adjourned with the direction to the Complainant Department to provide the following documents/information:</p> <p>i. Statement on oath of other person, so called controlling Director of alleged companies.            ii. Any other documentary evidence to establish involvement of the Respondent</p>	<p>The Complainant in response submitted the following:            (a) Statement of Shri Rajesh Kumar Agarwal dated 11.06.2014 and 22.01.2014            (b) Statement of Shri Arnab Kumar Dey dated 11.06.2014</p>

		<p>in whole issue.</p> <p>iii. Assessment Order of the Respondent for the financial year 2009-10.</p>	<p>(c) Statement of Shri Palat Mandal dated 11.06.2014</p> <p>(d) Assessment order dated 31.03.2016 passed in the case of M/s. Mahabir Jewellers Pvt. Ltd. (the beneficiary of the accommodation entries provided by the shell company) for the AY 2010-11 passed by the then Assessing Officer</p> <p>(e) Assessment order dated 31.03.2016 passed in the case of M/s. Mahabir Danwar Jewellers Pvt. Ltd. (the beneficiary of the accommodation entries provided by the shell company) for the AY 2010-11 passed by the then Assessing Officer.</p> <p>(f) Form 2 (Return of Allotment) in the case of M/s. Mahabir Jewellers Pvt. Ltd. and list of Allottees.</p> <p>(g) Form 2 (Return of Allotment) in the case of M/s. Mahabir Danwar Jewellers Pvt. Ltd. and list of Allottees.</p> <p>(h) Assessment Order in the case of Shri Rajesh Kumar Agarwal for the AY 2009-10 is presently not available</p>
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			with this office. However, requisition for the same has been sent to the Jurisdiction Officer for the same.
4.	13th December, 2022	Part-heard and adjourned with the direction to the Complainant Department to provide the following documents/information: i. Assessment Order of the Respondent for the financial year 2009-10.	The Complainant Department vide email dated 25 <sup>th</sup> July 2023 submitted its response.
5.	06 <sup>th</sup> January 2023	Adjourned at the request of the Complainant Department.	-----
6.	4 <sup>th</sup> May, 2023	Adjourned at the request of the Complainant Department.	-----
7.	28 <sup>th</sup> July 2023	Hearing concluded with a direction to the Complainant Department to clarify within 15 days as to whether both the DIN no. 00409772 and 02182975 belong to the Respondent	The Complainant Department vide email dated 31 <sup>st</sup> July 2023 submitted its response specifically stating that it was inadvertently written that the Respondent was one of the past directors of M/s Sirohi Home Products Private Limited.
8.	3 <sup>rd</sup> November 2023	Decision on the conduct of the Respondent taken on the basis of the documents and submissions on record.	-----

**BRIEF SUBMISSIONS OF THE RESPONDENT:**

The Respondent in his defence, inter-alia, submitted as under:-

- 3.1 The Director(Discipline) is required, and expected, that in arriving at the Prima Facie opinion, he should apply his mind to the facts of the case, the technicalities regarding the various procedures as required under the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules 2007 Rules and the provisions of the law governing the disciplinary mechanism of ICAI.



- 3.2 The entire Prima Facie opinion is an example of a document where the Director(Discipline) has chosen to ignore the submissions of the Respondent, has looked away from the mandatory procedures required to be followed in the matter of an investigation against a member of the Institute, and patently appears to have been guided by his premeditated mind in holding the Respondent to be guilty. It is incredible that the Director(Discipline) has neither considered the submissions, nor provided the documents requested, nor noticed the blatant disregard of the legally prescribed procedures; he has acted beyond his jurisdiction, and has made his conclusions by defying the principles of natural justice, much against the prescribed Rules.
- 3.3 The complainant had not even alleged that the Respondent was guilty under this charge. The above said clause clearly states that the Respondent can be held guilty only if there is an opinion of the Council. The Respondent has not been provided any opinion of the Council. Without such an opinion, no member of ICAI can be held guilty under this clause. It may be noted that the word "Council" has been defined under the Chartered Accountants Act, and it means nothing more or less than the Council of the Institute. There is no decision of the Council or a notification by the Government of India by which the any such powers of the Council are delegated to the Director(Discipline) . Accordingly, without even looking into the merits of the issues the Director(Discipline) has erred in applying this clause for holding the Respondent guilty for other misconduct since there is no opinion of the Council in this regard.
- 3.4 The Director(Discipline) has improved the complaint by introducing charges against the Respondent at his own will. This process is not recognised by law and the Director(Discipline) has acted beyond his jurisdiction, thereby rendering the entire PFO bad in law. The Director(Discipline) has formed his PFO without the Respondent having been given an opportunity to file his written statement in respect of the charge for which the Respondent has been held guilty. The objections of the Respondent had been totally ignored and not considered by the Director(Discipline). In doing so, the Director(Discipline) has displayed his biased, prejudice and his pre-determined mind. Denial of the right to submit his written statement is thus denial of right to present the defence by the Respondent. The actions of the Director(Discipline) render the entire inquiry bad in law.
- 3.5 The Respondent would believe that in accordance with the Rules, the PFO of the Director(Discipline) would have been presented to the Board of Discipline. It would have been in the fitness of things that the Board of Discipline would have noted that the charges made by the Complainant were contained in the Second Schedule, the contentions of the Respondent in this regard were thoroughly disregarded and ignored by

the Director(Discipline) and the Director had proceeded to hold the Respondent guilty under a Clause listed in the First Schedule.

- 3.6 The Respondent drew attention to the contents of his submission dated 4<sup>th</sup> October, 2017 which included the explanation on the following issues:
- i. An enquiry for Professional and Other Misconduct against a member of ICAI is required to be conducted in accordance with Section 21 of the Chartered Accountants Act and the procedures prescribed in the Chartered Accountants (Procedure of Investigations of professional and other Misconduct and Conduct of Cases) Rules, 2007.
  - ii. The Rules required a complaint to be filed in Form-I mandatorily.
  - iii. Form-I mandatorily requires the complainant to specify the particulars of the allegations together with the corresponding Clause/Part/Relevant Schedules to the Chartered Accountants Act under which the allegations are made.
  - iv. The Director(Discipline) is required to scrutinize the complaint filed, and the Rules specifically state the procedure to be followed for removal of any defects, failing which the matter would be required to be closed.
  - v. The Director(Discipline) is required to forward his opinion to the Board of Discipline or the Disciplinary Committee depending upon whether the charges for professional misconduct are contained in the First or Second Schedule to the Chartered Accountants Act.
  - vi. That any Respondent has a legal right to submit his legal statement to defend him- self once the charges is made known to him. In the absence of the charges made known to the Respondent, the question of his providing a written statement in his defence does not arise.
  - vii. The Director(Discipline) is not authorised to improve or enhance the complaint as he is in a position of a Judicating Officer.
- 3.7 The Complainant did not specify the charges of Professional Misconduct of the Respondent. The Director (Discipline) has patently ignored the objections raised by the Respondent in his various communications, and not even bothered to state why the objections were not entertained. The Director (Discipline) has expanded the complaint and has held the Respondent to be guilty under charges in respect of which the Respondent was not even given an opportunity to defend himself.
- 3.8 The Director (Discipline) had moved to the stage of forming his PFO having grossly erred in evaluating the circumstances of this case. The Director (Discipline) has arrived at his conclusion without even considering that there was no proof/evidence beyond reasonable doubt against the Respondent relating to the allegations. The Director has failed to realize that even though the Complainant had alleged that the Respondent was

involved in providing accommodation entries, no income in respect of any commission or brokerage earned through such activities has been added in his hands by the Income Tax Department.

- 3.9 The Director (Discipline) had sought from the Complainant additional proof of the involvement or engagement of the Respondent with the forming of companies for providing accommodation entries and/or otherwise providing such entries and the same has not been provided by the Complainant, the Director nonetheless went ahead with the forming of his PFO and that too holding the Respondent Guilty. The Director(Discipline) had specifically requested from the Complainant copies of the search and seizure report (relating to which the inquiry on the Respondent was initiated), but the same were not provided; the Director nonetheless went ahead with the forming of his PFO and that too holding the Respondent Guilty.
- 3.10 The Director (Discipline) had sought from the Complainant copies of (evidence) assessment order following the search and seizure; no order of the Respondent was provided by the Complainant, and assessment orders of two companies of a Mahabir group were provided which do not contain any proof beyond doubt that the Respondent was engaged in providing accommodation entries; the Director nonetheless went ahead with the forming of his PFO and that too holding the Respondent Guilty. The Complainant had not provided details of any beneficiary who admitted that the Respondent had provided him any accommodation entries, and this has not been considered by the Director (Discipline).
- 3.11 The Complainant had not provided confirmation from any broker or middleman for providing accommodation entries by the Respondent. Cognizance is required to be given to the fact that the Respondent has clarified beyond reasonable doubt that the so-called statement recorded by the Income Tax Department cannot be relied upon as admissible evidence, and there is no corroborative evidence produced by the Complainant in support of any of the allegations made. The Respondent has constantly communicated with the Disciplinary Directorate and raised non-negotiable issues to demonstrate that this enquiry cannot be proceeded with; the Director (Discipline) has however preferred to proceed with the same and form his PFO which is not maintainable on the grounds of technicality, facts and circumstances of the case, procedure required to be followed under the Rules and the requirements of law in matters of investigations of this nature.
- 3.12 Section 21A of the Chartered Accountants Act 1949 specifically mentions that the council "shall" constitute "a" Board of Discipline, which means that the council shall only constitute the one Board of discipline. Further having two Board of Discipline at any given

point of time, becomes invalid, unconstitutional and goes outside of the purview of what is envisaged in the law prescribed under Section 21A of the Chartered Accountants Act, 1949. The Respondent brings to notice the fact that in FY 2018-19, the ICAI had two Board of Discipline which is illegal and unconstitutional. The said fact has been mentioned in the annual report of ICAI for 2018-19, wherein it has been clearly stated that there were two Board of Disciplines.

- 3.13 The proceedings are going on as per Clause (2) of PART IV of the First Schedule of the Chartered Accountants Act 1949 wherein the Opinion of the Council is a pre- requisite. In spite of requests for the copy of the opinion of the Council, the same has not been provided.
- 3.14 It is a settled matter of law that the onus of proving a Respondent Guilty in a matter of Professional Misconduct lies with the person/authority alleging such misconduct; the Respondent is not required to bear the negative burden to prove that he is not guilty in the absence of any such proof/evidence. Considering the technical issues raised above, the applicability of the Rules governing the disciplinary mechanism, the facts and circumstances of the case and the provision of the law governing the disciplinary mechanism of ICAI, this enquiry needs to be closed forthwith, and the Respondent be declared not Guilty.

**OBSERVATIONS OF THE BOARD:**

4. On perusal of the documents and submissions on record, the Board observed that the Respondent raised certain technical objections with regard to the admissibility of the case and decided to deal with them before arriving at its Findings.
- 4.1 As far as the objection of the Respondent as to constitution of two Benches of the Board is concerned, the Board viewed that two Benches of the Board of Discipline were constituted with an avowed object to accelerate the disposal of disciplinary cases and the administrative Ministry i.e. Ministry of Corporate Affairs had also nominated the members as required under Section 21A (1) (b) to the Board of Discipline. On a conjoint reading of the provisions of the General Clauses Act, 1897 (which explicitly states that the words in singular shall include the plural, and vice versa) with the provisions of the Section 21A (1) of the Chartered Accountants Act, 1949(as amended) it is clear that the Council is empowered to constitute more than one Board of Discipline. The Benches so constituted carried out its functions inter-alia by conducting hearings and awarding





punishments in disciplinary cases falling within their respective jurisdictions during the relevant period. Besides, the Respondent failed to place any material to show that the constitution of two benches caused any prejudice to him. Also, the Board of Discipline was of the view that it is not the appropriate forum to challenge the constitution of its two Benches.

- 4.2 As regards the objection of the Respondent regarding the opinion of the Council as stipulated in Item (2) of Part IV of the First Schedule, the Board relied on para 17 and 18 of the Order dated 18th October 2018 passed by the Hon'ble Appellate Authority in the Appeal no. 12/ICAI/2017 and 14/ICAI/2017 - Anil Kumar Aggarwal Vs. The Institute of Chartered Accountants of India and others and Radhey Shyam Bansal Vs. The Institute of Chartered Accountants of India and others as under:

*"17. It is pertinent to note here that this Authority has already dealt with and decided this issue in the Appeals earlier namely Gyan Prakash Agarwal (Appeal No. 08/ICAI/2014), Rajiv Maheshwari (Appeal No. 05/ICAI/2014) and Sameer Kumar Singh Vs. ICAI (Appeal No. 07/ICAI/2014) and has held as under:- "15. Based on the above and by taking note of the written submissions made on behalf of the Institute of Company Secretaries of India, the Institute of Cost Accountants of India and the Institute of Chartered Accountants of India containing the detailed Page 9 of 14 analysis of the issue in question, we are of the considered view that the proper and correct interpretation which can be given to Clause (2) of Part-IV of the First Schedule to the respective Acts, in the light of the principles laid down and having regard to the case laws of various courts and further considering the basic objects, reasons and purpose of the amendment brought in the statutes as quoted above is that, 'Prima facie Opinion (PFO)' formed by the Director (Discipline) in all such complaints / information cases serves the purpose for proceeding further for taking disciplinary action against the errant members as in terms of the amended mechanism for conduct of cases, it is the Director (Discipline) who has to form the first Prima Facie Opinion for the disciplinary proceedings to be initiated. Therefore, the opinion of council as is mentioned in the Clause (2) of Part-IV of the First Schedule to the Act has to be given a purposive meaning and has to be read in consonance with the letter and scheme of the enactment.*

*18. In our considered view, the same shall mutatis mutandis apply in both these Appeals and accordingly, we find no merit in this ground. Thus, we hereby reject this ground of appeal as taken by the Appellants."*

Hence, the issue had already been decided by the Hon'ble Appellate Authority, and therefore, there is no merit in the argument of the Respondent in this regard.



- 4.3 As regard the objection of the Respondent that specific clause of the misconduct had not been defined by the Complainant, the Board was of the view It is trite that a Complainant is required as per law to state the allegations which are to form a factual foundation for an Adjudicating Authority to exercise jurisdiction and even if an incorrect provision of law/no clauses is mentioned by the Complainant in FORM I, that alone cannot be a ground to dismiss a complaint if otherwise the Authority has the jurisdiction to entertain the complaint.

Further, though the provision of Rule 3 is couched in a "mandatory form" by use of words such as "shall" and appear to be mandating a procedure that must be necessarily followed. However, mere use of language which suggest or purports to suggest a "mandate" may not alone be sufficient to regard a procedural rule to be mandatory to the extent that its non-compliance could vitiate the entire proceeding.

While coming to the said view the Board took into view the following observations of the Hon'ble Supreme Court in the matter of Uday Shankar Triyar v. Ram Kalewar Prasad Singh and Anr. (Reported in AIR 2006 SC 269) as under:

*"Non-compliance with any procedural requirement relating to a pleading, memorandum of appeal or application or petition for relief should not entail automatic dismissal or rejection, unless the relevant statute or rule so mandates. Procedural defects and irregularities which are curable should not be allowed to defeat substantive rights or to cause injustice. Procedure, a handmaiden to justice, should never be made a tool to deny justice or perpetuate injustice, by any oppressive or punitive use."*

Thus, non-mentioning of clauses can at the highest be treated as "technical defect." Infact, the procedure to be adopted in case of defective complaint is that the defect, if pointed out, and not cured by the complainant, it is incumbent upon the Director (Discipline) to form a prima facie opinion of no case and recommend its closure. However, the Board of Discipline is vested with discretion to ignore the recommendation, if it deems fit, and proceed further with the matter.

The onus to formulate a prima facie opinion as to the misconduct rests with the Director (Discipline) and therefore, premised on the pleadings filed which contains the allegations and documents placed on record, it is the Director (Discipline) which has to first formulate a prima facie opinion on the alleged misconduct.

Therefore, notwithstanding the assertions as to the particular clause of misconduct by a Complainant, the Director (Discipline) shall, after perusing the material available,



conclude as to existence or otherwise of the misconduct alleged. This is also apparent from the provisions of various sub clauses of Rule 9(2)(a) of the Misconduct Rules, 2007 , which require the Director(Discipline) to place the matter before the Board of Discipline , if the misconduct alleged falls within the First Schedule and before the Disciplinary Committee , if the alleged misconduct falls within the Second Schedule or both under the First and Second Schedule. This also supports the view that the sifting of the allegations to identify the clauses of misconduct is to be performed by the Disciplinary Directorate.

This issue can also be addressed from the perspective of the status of the complainant. The requisite provision in the statute or under the Rules does not prescribe as to who can file a complaint under the provisions of the Act alleging misconduct by a member. Therefore, the Complainant can be a statutory authority, a member of the Institute who is well versed with the provisions of the Act or even a member of public who may not be familiar with the provisions of the Act. In such a scenario, to give a pedantic interpretation to the provisions of the Act and the Rules making it incumbent on a Complainant to specify clauses of misconduct would be denying the remedy otherwise available under the statute.

If the allegations stated in the complaint do not fall within any specified clauses of professional misconduct, the same may however be a case of "other misconduct" and the ICAI would be within jurisdiction to proceed further on the allegations. Therefore, non-mentioning of clauses pertaining to "misconduct" does not in any manner vitiate the proceedings.

- 4.4 As regard the charge alleged, the Board noted the Complainant Department had recorded two Statement of the Respondent on Oath before DDIT (Inv.), Unit IV (2), Kolkata in connection with an enquiry conducted by Directorate of Income Tax (Investigation), Kolkata under section 131 of the Income Tax Act, 1961 on 22.01.2014 and 11.06.2014. The relevant extract of the same is quoted hereunder:

**Statement dated 22.01.2014:**

*"Q.5- What is your source of income?"*

*Ans. My main source of income is from commission income earned by arranging and providing accommodation entry to various entities through "jama kharchi/paper companies".*

*Q.8- Please state the names of the companies in which you and your family members are associated with.*

*R*

*Ans. I am not director in any companies nor any of my family members are directors in any company."*

**Statement dated 11.06.2014.:**

*"Q.5- What is your source of income?*

*Ans. My main source of income is from commission income earned by providing accommodation entries through "jama-kharchi/shell companies to various beneficiaries".*

*Q.17- Please explain the sources of such share capital provided to Mahabir Danwar Jewellers Pvt. Ltd. and Mahabir Jewellers Pvt. Ltd. and also explain the modus operandi of providing accommodation entry.*

*Ans. Initially I was introduced to Mahabir Group by Shri Vishal Bhuwania, Chartered Accountant working from 2A, Ganesh Chandra Avenue, 4<sup>th</sup> Floor, Kolkata-700001 who has arranged accommodation entries in the form of share capital for Mahabir Group, thereafter the whole process of providing entry accommodation has taken place. The sources of such share capital are nothing but the money transferred by Mahabir Group to Shri Vishal Bhuwania from whom I used to collect cheques and deposits the same in my own company accounts. In the books of accounts of my companies, the money received from Shri Vishal Bhuwania used to be shown as money received for sale of investments (shares). Subsequently, I used to issue cheques from my own company's accounts to Mahabir Group in the garb of paying for share capital to return back their own money. In this way, I used to route back the same amount of money received from Mahabir Group via the contact Shri Vishal Bhuwania to their books of accounts in the form of share capital. Adjustments were made to the amount of money by adjusting the premiums amounts of each share offered. The valuation of the shares along with premiums had no other financial rationale."*

- 4.5 The Board further noted that the Respondent retracted the above two statements by filing a notarized sworn Affidavit dated 27.01.2014 and 13.06.2016 respectively.
- 4.6 The Board also noted that the Complainant Department brought on record a copy of the Statement recorded before the Income Tax Department on 11<sup>th</sup> June 2014 of the following alleged dummy directors in the companies allegedly managed and controlled by the Respondent:

- (a) Shri Arnab Kumar Dey  
(b) Shri Palat Mandal



4.7 The Board also noted that the Complainant Department brought on record copy of the Assessment Orders of the following beneficiary companies for Assessment Year 2010-2011, wherein addition of undisclosed income under Section 68 of the Income Tax Act, 1961 had been there and in trail of share capital, name of the Respondent had been shown as one of the operators:

Name of the Beneficiary Company	Addition of Income	Assessment Year	Reason for the Addition
Mahabir Jewellers Pvt. Ltd.	(a) Rs.60,00,000/- (b) Rs.25,00,000/-	2010-11	(a) Unaccounted cash added back as unexplained credits u/s 68 of the Income Tax Act, 1961.  (b) Bogus Share capital raised on added back to the total income as unexplained credits u/s 68 of the Income Tax Act, 1961.
Mahabir Danwar Jewellers Pvt. Ltd.	(a) Rs.2,09,00,000/- (b) Rs.10,00,000/-	2010-11	(a) Unaccounted cash added back as unexplained credits u/s 68 of the Income Tax Act, 1961.  (b) Bogus Share capital raised on added back to the total income as unexplained credits u/s 68 of the Income Tax Act, 1961.

4.8 The Board also noted that the Respondent confirmed that neither he nor any of his family members have been Auditor or Shareholder or Director of the following alleged shell companies:

- M/s Polson Tie-Up Private Limited

- M/s Sirohi Home Products Private Limited

-M/s Intellectual Securities Private Limited

Further, the Complainant Department could also not bring on record any documentary evidence to prove to the contrary.

4.9 Thus, on a combined reading of the aforesaid documents, the Board viewed that primarily on the basis of the Statement of the Respondent recorded before the Complainant Department on 22<sup>nd</sup> January, 2014 and 11th June, 2014 which had been subsequently retracted by him and the Statement of the alleged dummy directors in the companies allegedly managed and controlled by the Respondent recorded on 11th June, 2014 before the concerned official of the Complainant Department, charges had been alleged against the Respondent. Similarly, primarily on the basis of the said Statement of the Respondent, there has been addition of income in the hands of some of the beneficiary companies for one assessment year. The Respondent has raised concerns over the said Statement as not being given under normal circumstances and voluntarily. The Complainant Department could not bring on record any Assessment Order to show that commission income had been added to the income of the Respondent on account of any accommodation entries provided by him, as alleged. The Complainant Department did not bring on record any corroborative and conclusive evidence to substantiate the way and the manner in which accommodation entries had been provided by the Respondent which is considered essential to establish the misconduct alleged on the part of the Respondent.

4.10 Thus, on a detailed perusal of the submissions and documents on record, the Board was of the view that despite opportunities given, the Complainant Department has not been able to substantiate with corroborative and conclusive documentary evidence its claim that the Respondent had formed various shell companies for the purpose of providing pre-arranged accommodation entries through the companies controlled and managed by him. In view of the same, the Board held the Respondent NOT GUILTY in respect of the charge alleged.



**CONCLUSION:**

5. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **NOT GUILTY** of Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act. Accordingly, the Board passed Order for closure of the case in terms of the provisions of Rule 15 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

Sd/-

**CA. Rajendra Kumar P**  
(Presiding Officer)

Sd/-


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

Sd/-

**CA. Priti Savla**  
(Member)

**DATE: 06-12-2023**

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

  
नीलम पुंडीर / Neelam Pundir  
बालिव कार्यालय अधिकारी / Sr. Executive Officer  
अनुशासनशास्त्र निर्देशकालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
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