

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/106/18/DD-134/18/BOD/667/2022]

CORAM (present in person):

**CA. Rajendra Kumar P, Presiding Officer
Ms. Dolly Chakrabarty (IAAS, retd.), Government Nominee**

In the matter of:

**Shri Srinath Ramakrishna,
Flat D1202, Vaishnavi Nakshatra Appt,
Tumkur Road, Yeshwanthpur,
BANGALORE – 560022.**

.....Complainant

Versus

**CA. Roshan T. Mansoor, (M No. 224923)
M/s. Roshan Mansoor & Co.
Chartered Accountants,
D06, 6th Floor, Jain Heights,
Solus I, J.C. Road,
BENGALURU – 560027.**

.....Respondent

DATE OF FINAL HEARING : 15th June, 2023

PARTIES PRESENT:

**Complainant : Shri Srinath Ramakrishna (through video conferencing)
Respondent : CA. Roshan T. Mansoor (in person)
Counsel for the Respondent : Shri N. P. Vijay Kumar, Advocate (in person)**

FINDINGS:

BRIEF BACKGROUND OF THE CASE:

1. In the instant case, the Complainant and Respondent have admittedly provided services to each other wherein Complainant had provided IT related services to the Respondent such as website development, domain renewal, email services etc. whereas the



Respondent has provided his professional services on tax, GST related matters and there is a dispute between them regarding the amount due to each other.

CHARGE ALLEGED:

2. The Complainant has alleged against the Respondent as under:
 - 2.1 The Respondent has misled him in providing wrong advice on capital gains tax arising on sale of a property and has extracted a sum of Rs. 62,500/- from Complainant by dubious means.
 - 2.2 The Respondent has advised him that he will bring down the amount of Rs. 45,00,000/- on which capital gain is required to be paid to Rs. 23,50,000/- by falsely showing an amount of Rs. 9,00,000/- as commission paid on sale of the said property and an expenditure of Rs. 12,50,000/- to be shown as a book entry for being incurred towards construction of compound wall around the said property.
 - 2.3 When the Complainant approached another Chartered Accountant to seek a second opinion, he was advised that he is not liable to pay any tax if he invests the sales proceeds in buying another residential house property.

The Board noted that the Director(Discipline) in his Prima Facie Opinion held the Respondent Not Guilty of Professional and Other Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule and Item (2) of Part IV of the First Schedule read with section 22 of the CA Act to the Chartered Accountants Act, 1949. While concurring with the reasons given against the charge(s) and the view of the Director(Discipline) holding the Respondent Not Guilty of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949,, the (erstwhile) Board also observed that the mobile number 9886301237 with which the whatsapp/text message communication between the Respondent and the Complainant took place was also specified on the copy of the invoice dated 5th September 2017 brought on record by the Respondent and the same was also registered with the Member records of the Institute as his mobile number. The Respondent did not deny that the said mobile number was not used by him. Although he alleged that the messages have been concocted, yet, he did not bring on record the actual whatsapp/text message communication which took place between him and the

Complainant. Whereas the Complainant brought on record the weblink i.e. <http://whatsapp.com> from where the said conversation had been obtained. In the said whatsapp conversation, the Respondent is asking for the payment of Rs. 62,500/- on 8th August 2017 and that too before 10th and in cash which has been confirmed to have been paid by the Complainant on 10th August 2017. Infact, the said receipt of amount in cash is acknowledged by the Respondent by issuing a cash receipt no. 24 dated 10th Aug 2017 and also in the whatsapp conversation brought on record by the Complainant. Although, in the said cash receipt no.24 dated 10th August 2017, it has been specified that the same is on account of payments outstanding as on 31st March 2017, the Respondent has not brought on record copy of any invoice raised in the said respect. He brought on record an invoice dated 5th September 2017 wherein Rs. 25,000/- has been charged from the Complainant for consultancy on capital gain. Thus, the Board was of the view that the role of the Respondent in arranging false invoices for the Complainant on the basis of cash payment and for a commission cannot be ruled out and his conduct unbecoming of a Chartered Accountant needs to be examined through further enquiry. Thus, the Board did **not agree** with the Prima Facie Opinion of the Director (Discipline) that the Respondent is **Not Guilty** of Other Misconduct falling within the meaning of Item (2) Part IV of the First Schedule read with section 22 of the CA Act and decided to proceed under Chapter IV of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

BRIEF OF PROCEEDINGS HELD:

Date of Hearing(s)	Status of Hearing(s)
20 th April, 2023	Adjourned at the request of the Complainant.
15 th June, 2023	Heard and concluded.

BRIEF SUBMISSIONS OF THE PARTIES TO THE CASE:

A. RESPONDENT:

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

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- 4.1 The Complainant's wife was hospitalized for her cancer treatment during August 2017. She was taking treatment in HCG Hospital in Mission Road and the Respondent had his office on Mission Road as well. So, during this period, the Complainant would come down to his office while his wife would be taking treatment. Based on his request, the Respondent allowed Complainant to use his office space during those days. During these times, the Complainant would pitch for business in terms of software which could be used for accounting profession, social media marketing, SEO and etc. One of these days, he also insisted that he would update MacBook-laptop with apps which could be used in Respondent's profession and also update the system and took away the laptop for the same.
- 4.2 The WhatsApp messages has been concocted by the Complainant, as he had access to the MacBook which had web logged in through which Complainant was able to send messages to himself according to his convenience and fabricated false story to create grounds for false complaint. The Respondent has gone through the entire WhatsApp conversation, he realized that these messages were concocted according to the Complainant's convenience and have been deleted thereafter which the Respondent was totally unaware of, till this was brought to his notice by the ICAI. The Institution is at liberty to send records to forensic for detail investigation and bring out the truth in it. Also, substantially the Complainant had control over the Respondent's domain and mail as well which further substantiate his wrong intentions and doing.
- 4.3 The Respondent's website www.roshanmansoor.in and his official emails were maintained by the Complainant from 2014 onwards, until this case has come around. The Complainant multiple times in the past tried to harass the Respondent by having control over domain of website and mails. It was only in the year 2020 the Respondent bought back the domain as the Complainant had not renewed the domain by paying the said fee and it was available to purchase. This act of the Complainant is a crime as per Information Technology Act and also falls under Indian Penal Code. The fact is un-denied that the Complainant is owning technology company, Respondent gave him business opportunity to maintain his website domain and mail server, which was misused for blackmailing, harassing, defaming the Respondent in front of professional body. This fact is admitted by

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the Complainant as well that he maintained Respondent's website and had access to all the professional conversations via emails.

- 4.4 The Respondent has been filing IT returns for the Complainant & his wife from the financial year 2013-14 onwards and by virtue of statute the returns for individuals are filed in the month of July and for the companies it would be from September to October. The Complainant orally had a conversation in the month of July that their domain server, emails are costing high in the recent past & thereafter both mutually agreed to bill each other for the respective services henceforth. Post above said event, when Respondent ascertained the invoice amounts, he realized that his service charges would be more than the Complainant's services through Info Timer Technologies Pvt. Ltd. The Complainant agreed and paid Rs 62,500/- on 10-08-2017 as an advance/part-payment and demanded the cash receipt to be handed over to him. Further, the Complainant sent tax invoice on 19-08-2017 for an amount of Rs 92,040/- for his services after which Respondent sent final invoice no.16 on 05-09-2017 for an amount Rs 1,71,100/- and informed the Complainant that he owed Respondent Rs 16,560/- as outstanding balance.
- 4.5 The consultation pertaining to capital gains was in regard to shares/trading/investment, specifically the short term & long-term capital gains and set off loss for which the consultation charges were raised in Invoice no.16 dated 05.09.2017. The institution is at liberty to summon the IT returns of the Complainant which substantiates Respondent's consultation charges. On the Board's view that Respondent's role in arranging false invoices for the Complainant on the basis of cash payment and for a commission cannot be ruled out, the Respondent requested the board to give a thought on the essence of transaction practically and in logical purview, in support of which, he stated as under:
1. No invoices of PVK construction of that nature is with Complainant
 2. No-one will provide invoices for 5% commission wherein GST rates for the same is 18%
 3. For any invoice, firstly the Gross amounts have to be transferred to Bank accounts of PVK Constructions and same has not carried out by the Complainant.
 4. For Respondent to arrange those bills from PVK constructions he has no client by that name and the Institute have the liberty to check the same.
- 4.6 He further submitted that deceiving anyone for Rs.62500/- is completely baseless.

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B. COMPLAINANT:

5. To substantiate his case, the Complainant, inter-alia, made the following submissions:-
- 5.1 The Complainant sold his site bearing No. 179, MIG, developed by KHB, situated at Bande Mutt, Kengeri Village, Bangalore for a sum of Rs.45,00,000/- under a registered sale deed dated 03.08.2017, registered in the office of the Sub-Registrar, Bommanahalli, Bangalore. The Complainant then approached the Respondent for consultation over phone whether he was liable to pay capital gains tax on the said amount of Rs. 45,00,000/- received by him as sale consideration in respect of the sale deed dated 03.08.2017. The Respondent advised the Complainant to pay capital gains tax and the Respondent would bring down the capital gains tax to be paid by Complainant by showing in the Books of Account that an amount of Rs. 12,50,000/- is paid to M/s. PVK Constructions for construction of the compound wall around the said site and that an amount of Rs.9,00,000/- was paid as Commission towards the sale of the said site to the agent who negotiated for the sale of the said site and thus the value of the site for the purpose of calculation of the capital gain would come down to Rs.23,50,000/- and that Complainant would be liable to pay Rs. 46,750/- towards the capital gains in respect of the said transaction.
- 5.2 The Respondent also advised the Complainant to transfer a sum of Rs.9,00,000/- i.e., the commission amount in respect of the said sale transaction to the two accounts which he provided to Complainant and also sought for commission of 10% on the amount of Rs. 12,50,000/- and 10% of commission on Rs. 9,00,000/- and advised to pay a sum of Rs. 3,00,000/- towards professional charges which includes the commission payable as stated and also capital gains tax of Rs.46,750/- (approx.). On 08.08.2017, the Respondent messaged Complainant on WhatsApp asking him to pay a sum of Rs.62,500/- towards the invoice and followed it up with phone calls on 09.08.2017 and 10.08.2017. On 10.08.2017, at around 10 p.m. the Respondent sent one of his employees by name Ms. Ashwini to collect the said sum of Rs.62,500/- from Complainant and he paid the said amount to Respondent through the said Ms. Ashwini on 10.08. 2017. On 10.08.2017 at 10.30 p.m. the Respondent acknowledged the receipt of the same by WhatsApp message and promised that he will get the invoice by 12.08.2017.
- 5.3 On 11.08.2017 after the payment of Rs.62,500/- to the Respondent, the Complainant after getting some suspicion, approached another Chartered Accountant who advised him

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that he is not liable to pay any Capital Gains Tax. The Complainant immediately contacted the Respondent over phone and sought for return of the money paid to him and also informed that he does not want any invoice from him since Complainant was advised that he was not liable to pay any Capital Gains Tax. Thereafter, the Respondent sent a bill for Rs.1,71,000/- to the Complainant claiming his professional charges for having filed the returns for the years, 2013-14, 2014-15 and 2015-16. In this regard, both have exchanged emails. Later, the Complainant got issued a legal notice dated 13.11.2017 to the Respondent for which, he replied through his Advocate Mr. Goutham Sridhar dated 04.12.2017 in which all the averments made in the legal notice dated 13.11.2017 were denied.

- 5.4 At the request of the Respondent, the Complainant has agreed to maintain the website of the Respondent viz., www.roshanmansoor.in from 26.11.2013. At that point of time, Respondent agreed to pay Rs.4,000/- per annum only for website hosting with a basic hosting service provider. Subsequently, in one month's time, at his request the services were upgraded to fully manage annual services such as website hosting, domain renewal, e-mail services, and search engine optimization for which the Respondent agreed to pay a fee of Rs.26,617/- per year. He paid for the first year an amount of Rs.22,617/- through NEFT dated 01.02.2014. The Complainant also provided services for website design and development as and when needed by the Respondent which are out of the scope of the above invoice amount. The Complainant carried out such services since the year 2013 till the date of sending the legal notice. The understanding was that the fees payable by Complainant shall be adjusted towards the professional charges for filing IT returns and other services. Except for the first payment, the Respondent did not pay any amount till the date of dispute arose. However, after Complainant requested that Rs.62,500/- be returned to him, the Respondent raised the bill for Rs. 1,71,000/- towards professional fee though Complainant have paid the professional charges over the years. Further, the Respondent has been offering his services since FY 2011-12 and has requested a sum of Rs. 14,000/- for filing returns for FY 2011-12 and Rs.15,000/- for filing of returns for FY 2012-13. This was paid on 19th Dec 2012 and 24th Dec 2013 respectively and has been accepted by the Respondent.

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- 5.5 The Complainant has rendered his services for 4 years till August 2017 (2013-14, 2014-15, 2015-16 and 2016-17) and the same has been accepted by the Respondent in his written statement. The Complainant also agrees that Respondent had also filed returns for 5 financial years 2011-12, 2012-13, 2013-14, 2014-15 and 2015-16. He has no objection to claiming the professional charges by Respondent for his services rendered to Complainant and he is also entitled to claim Complainant's service charges as agreed. For filing IT returns, the professional charges were at Rs. 14,000/- which was paid in 2012 and Rs.15,000/- in 2013. On 24.12.2013, Complainant paid Rs. 15,000/- through NEFT from ICICI Bank. For 5 years, his fees as charged by him in 2012 amounted to Rs. 70,000/-. Respondent cannot claim a sum of Rs.1,71,000/- as his professional fees for filing IT returns for 3 years as per the invoice raised by him dated 05.09.2017 and this itself is sufficient to prove the Professional Misconduct of Respondent.
- 5.6 The Complainant was maintaining the Respondent's website from the year 2013 onwards and provided fully managed services subsequently in a month's time of starting Complainant's services. The said services were closed by the Respondent from 19.08.2017. Accordingly, the Complainant has informed closing the go-daddy domain of the Respondent from 19.08.2017. That means, the Respondent has acknowledged Complainant's services till 18.08.2017 from 2013 onwards and he is liable to pay Complainant's charges as agreed which he has not paid and falsely claim that he has paid the service charges. There is no proof of the same. This is nothing but professional misconduct by the Respondent and he is liable to be punished.
- 5.7 The Complainant confirmed that he never went to the office of the Respondent at any point of time and operated his laptop. The Complainant cannot access his laptop or misuse his laptop for sending mails. He being a professional is very much using his laptop and is aware of the mail correspondences and the same will be in the mailbox across all the devices used by him (laptops, phones, desktops etc.) and he could have objected for that at that time itself had it not been done by him.

OBSERVATIONS OF THE BOARD:

- 6.1 At the outset, the Board noted that admittedly both the Complainant and the Respondent had service dealing with each other i.e. the Complainant provided IT related services to

the Respondent such as website development, domain renewal, email services etc. whereas the Respondent provided his professional services on tax, GST related matters, etc. to the Complainant. The Board noted that during the course of rendering such services, dispute arose between them regarding the amount due to each other.

6.2 In the said context, the Board noted that the following seriatim of events merits consideration:

S.no.	Date	Particulars								
1.	20 th July 2017	An email addressed by the Complainant to the Respondent seeking his advice on the Capital Gains in the case of 2 specified transactions.								
2.	10 th August 2017	Cash payment of Rs. 62,500/- by the Complainant to the Respondent firm towards outstanding as on March 2017 for which receipt had been issued to him.								
3.	19 th Aug 2017	An invoice no.1016 raised by the Complainant's company on the Respondent's firm to the tune of Rs. 92,040/- with respect to the services rendered on account of website hosting, domain renewal, email service and website development.								
4.	21 st Aug 2017	<p>An email addressed by the Complainant to the Respondent with the following contents which depict the scope of work carried out by the Respondent in respect of the Complainant and his companies:</p> <p><i>" We had appointed you as our chartered accountant for myself (PAN No:ADVPR7858R) and my wife Neha Srinath (PAN No:AVNPS2592P) since Financial Year 2011-12.</i></p> <p><i>Ever since Financial Year 2011-12 you have handled our personal and company accounts with all tax departments, the company accounts are as follows:</i></p> <table border="1" data-bbox="603 1758 1439 1984"> <thead> <tr> <th>S. No.</th> <th>Company Name</th> <th>Management</th> <th>PAN</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>SV Enterprises</td> <td>Proprietor: Srinath Ramarishna</td> <td>ADVPR7858R</td> </tr> </tbody> </table>	S. No.	Company Name	Management	PAN	1	SV Enterprises	Proprietor: Srinath Ramarishna	ADVPR7858R
S. No.	Company Name	Management	PAN							
1	SV Enterprises	Proprietor: Srinath Ramarishna	ADVPR7858R							

		2	InfoCube Technologies	Proprietrix: Neha Srinath	AVNPS2592P
		3	OfficeTimer	Proprietor: Srinath Ramarishna	ADVPR7858R
		4	InfoTimer Technologies Pvt. Ltd.	Directors: Srinath Ramakrishna & Neha Srinath	AAECI2876H
		<p><i>Request you to hand us over all the original files.....</i></p> <p><i>Once we have received the files we wish to discontinue your services as our Chartered Accountant."</i></p>			
5.	05 th September 2017	<p>Invoice bearing no.16 for an amount of Rs 1,71,100/- raised by the Respondent's firm on the Complainant wherein professional fees had been charged by the Respondent on the following heads:</p> <p>(a) Professional Fee towards Income Tax filing from FY 2013-14 – Mr. Srinath</p> <p>(b) Professional Fee towards Income Tax filing from FY 2013-14 – Mrs. Neha Srinath</p> <p>(c) Service Tax Registration (5000*3)</p> <p>(d) GST Registratlon (5000*3)</p> <p>(e) Service Tax Return Filing (2500*4)</p> <p>(f) GST filing for the month of June (2500*2)</p> <p>(g) Consultation on Capital Gain</p>			

6.3 The Board also noted that the Complainant brought on record copy of email communication between him and the Respondent wherein the Respondent has charged for his services for FY 2011-12 and 2012-13 and Rs. 14,000/- and Rs. 15,000/- had been paid by him on 19th December 2012 and 24th Dec 2013 respectively.

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6.4 On a detailed perusal of the documents and submissions on record, the Board noted that the bone of contention in the instant case was the rendering of allegedly wrong advice on the Capital Gains matter by the Respondent for which fees had been claimed by him. Further, as admitted by the Complainant during the course of hearing that the said advice/opinion was not in writing. The Board also noted that there had been professional dealings both between the Complainant and the Respondent during the period of alleged misconduct and to and fro payments on that count between the two had been there. The Board was also of the view that the Complainant could not bring on record any evidence to indicate that the Respondent suggested a way for bringing down capital gain liability by arranging false invoices for him on the basis of cash payment of Rs. 62,500/- for a commission, as alleged. The Board also noted that question on the authenticity of whatsapp messages between the Complainant and the Respondent brought on record by the Complainant had been raised by the Respondent and in absence of any other corroborative evidence, the charge of the Complainant remains unsubstantiated. Hence, looking into the facts and circumstances of the case along with the documents and submissions on record, the Board held the Respondent Not Guilty in respect of the charge alleged against him.

CONCLUSION:

7. 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 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.

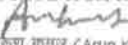
Sd/-

CA. Rajendra Kumar P
(Presiding Officer)

Sd/-

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

DATE: 18-12-2023

सही प्रतिलिपि का प्रमाण प्रमाणित
Certified to be true copy

अरुण कुमार / Arun Kumar
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक विभाग / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्डेड एकाउंटेंट्स ऑफ इंडिया
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