



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

[PR/202/15-DD/204/2015/BOD/390/2017]

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:

Shri R.V. Ravi Kumar
Managing Director
M/s Ravikumar Distilleries Limited
No. 17, Kamaraj Salai
PONDICHERRY – 605 011.

.....Complainant

-vs-

CA. Anil Kumar Agrawal (M.No.039025)
301 A, Hetal Arch
3rd Floor, S V Road, Malad (West)
MUMBAI – 400 064.

.....Respondent

[PR/202/15-DD/204/2015/BOD/390/2017]

MEMBERS PRESENT (in person):

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

Date of Hearing and passing Order: 11th January 2024

1. The Board of Discipline vide its Findings dated 18th December 2023 was of the view that **CA. Anil Kumar Agarwal (M. No. 039025)** is **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.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Anil Kumar Agarwal** and communication dated 4th January 2024 was addressed to him thereby granting him an opportunity of being heard on 11th January 2024. The Respondent vide email dated 10th January 2024 informed that he will be attending the hearing in person alongwith his representative CA. Pradeep Kumar Choudhary. The Board held that since there is no specific stipulation as regard representation through an authorized representative in Rule 15 of The Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 and no fresh grounds can be adduced at this stage, representation through authorized representative is not permitted. Accordingly, only the Respondent appeared in person before the Board. He confirmed receipt of the Findings of the Board. He also made a written representation on the Findings of the Board vide letter dated 10th January 2024. He also made his oral representation before the Board.
3. Thus, upon consideration of the facts of the case, the consequent misconduct of **CA. Anil Kumar Agarwal (M. No. 039025)** and keeping in view his representation before it, the Board decided to Reprimand him.

Sd/-

CA. Rajendra Kumar P
(Presiding Officer)

Sd/-

CA. Priti Savla
(Member)

Sd/-
Ms. Dolly Chakrabarty (IAAS, rettd.)
(Government Nominee)

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

बिष्वा नाथ तिवारी / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनमूलक निर्देशालय / 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, 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/202/15-DD/204/2015/BOD/390/2017]

CORAM (present in person):

CA. Rajendra Kumar P, Presiding Officer

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

In the matter of:

Shri R.V. Ravi Kumar

Managing Director

M/s Ravikumar Distilleries Limited

No. 17, Kamaraj Salai

PONDICHERRY – 605 011.

.....Complainant

Versus

CA. Anil Kumar Agrawal ... (M.No.039025)

301 A, Hetal Arch

3rd Floor, S V Road

Malad (West)

MUMBAI – 400 064.

.....Respondent

DATE OF FINAL HEARING

: 31st August 2023

PARTIES PRESENT (in person):

Complainant

**: Shri R. V. Ravi Kumar alongwith Shri Badrinath S. Gandhi,
Executive Director of the Complainant company**

Respondent

: CA. Anil Kumar Agarwal

Counsel for the Respondent

: Shri Satish Agarwal, Advocate

FINDINGS:

CHARGE ALLEGED:

- 1.1 The Respondent, being MD of M/s Comfort Securities Limited (Merchant Banker) and M/s Comfort Intech Ltd. (NBFC Company) had cheated the Complainant's Company through a forged and fabricated Axis Bank cheque return Memo. The Complainant alleged that with the above cheque return memo, he has cheated the Complainant's Company's 51% of the promoters shares which were in his DP A/c, Rs. 33.60 Crores from IPO, a Company worth Rs. 32 Crores at Nacharam, Hyderabad. A case has been registered for the same against the Respondent with Economic Offences Wing, Mumbai vide FIR dated 21st January 2014.
- 1.2 The Respondent grabbed the Complainant's Company namely M/s Liquors India Limited, Nacharam, Hyderabad and siphoned off amount of Rs. 7.50 Crores under threat.
- 1.3 He cheated RBI by forging and fabricating RBI documents and transferring Crores of rupees to his group Company at Dubai for which RBI has cancelled NBFC licence of his Company namely, M/s Comfort Intech Limited.
- 1.4 SEBI has also banned the Complainant's group Companies namely M/s Comfort Securities Ltd., M/s Comfort Intech Ltd., Comfort Fincap Ltd., First Financial Services, Syncom Formulations India Limited, Ranisati Dealer Private Limited, Padma Impex Private Limited, Anil Agrawal HUF from stock trading directly or indirectly. Further, SEBI has found that an amount of Rs. 172.21 Crores cheated by the Respondent and others for which SEBI has also filed complaint against the Respondent with Enforcement Directorate, Income Tax Department and Financial Intelligence Unit.
- 1.5 Several cases of cheating and quashing FIRs are pending before the Mumbai and Hyderabad Courts against the Respondent, his family members and group Companies. Further, one of the Respondent's group Company, M/s First Financial Services Limited has filed a suit blaming the mismanagement of the Complainant's Company, however, the same was dismissed by the Court.

BRIEF OF PROCEEDINGS HELD:

2.

<u>S.No.</u>	<u>Date of Hearing(s)</u>	<u>Status</u>
1.	12 th January, 2019	The Board adjourned the hearing in the matter with specific direction to the Respondent that in whatever charges he

		has been acquitted, he may file a copy of the same with a copy to the other party to the case.
2.	10 th April, 2019	Adjourned due to paucity of time.
3.	04 th June, 2019	Part heard and adjourned with the direction to the Respondent to submit status of all the pending cases related to the instant matter before different agency/Court (with a copy to the Complainant).
4.	20 th October, 2019	Part heard and adjourned with the direction to the representative of the Complainant to ensure the presence of the Complainant, Shri R.V. Ravi Kumar in its next meeting.
5.	20 th December, 2021	Adjourned at the request of Respondent.
6.	28 th March, 2023	The Board adjourned the hearing in the case to provide a last opportunity to the Complainant to appear at the next date of hearing so that the right of cross-examination can be exercised by the Respondent.
7.	23 rd May, 2023	Part Heard and adjourned with the direction to the Respondent to be present before the Board at the next date of hearing as his presence is considered essential to arrive at a decision in the case.
8.	31 st August, 2023	Heard and concluded.

BRIEF SUBMISSIONS OF THE PARTIES TO THE CASE:

(A) Respondent:

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

- i. In the year 2009, Ravikumar Distilleries Limited (RKDL) and Comfort Securities Limited (CSL) entered into a MOU on 27.10.2009, thereby appointing CSL as the lead BRLM for RKDL's Public Issue. According to this MOU, CSL had successfully completed its obligations with regard to the IPO work. On completion of the IPO, CSL then transferred the IPO proceeds to the account of RKDL.

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- ii. In the year 2013, Complainant then started complaining against Respondent and his group companies, by way of criminal as well as civil allegations. Some of the complaints are as under:

1	Filing of Civil Suit before the Ranga Reddy Court in February 2013	In the proceedings, Complainant was unable to show the original MOU dtd 05.09.2012 against which he submitted the Civil Suit. Now, he is delaying the matter as he is unable to produce the document before the Court and the main document which he attached in the proceedings is a false and fabricated document.
2	Filing of Company Petition before NCLT (CLB) at Hyderabad in 2013	-----
3	Registered an FIR against Respondent and others in 2013 at Nacharam, Hyderabad	-----
4	RBI in June 2014	Complaint was diverted
5	SEBI in 2014	-----
6	CDSL in 2014	Matter was not sustained
7	Registered an FIR against Respondent in 2014 at EOW, Mumbai	The FIR was quashed vide Bombay High Court Order dtd. 08.12.2014
8	Filed a Civil Recovery Suit before the Hon'ble Bombay High Court	Case was withdrawn by Complainant himself with orders from Bombay High Court
9	Initiated an enquiry by ED	Respondent's reply was submitted long back
10	Enquiry initiated by ED in case of RBI	ED has closed the case with Order that the ex-employees were responsible

In all the above complaints, Complainant's allegation is that Respondent has siphoned off the IPO funds of approx. Rs.34 crores. This is the basic allegation in all the complaints. The above complaints are filed after a time span of one and a half years after the successful launching of the IPO.

The investigation agencies/courts had come out with some facts as under:

- (a) Complainant filed a Recovery Suit against one of the companies, i.e. BLC Trading & Agencies Pvt. Ltd., which subsequently he himself has withdrawn the Suit after framing of the issue by the Bombay High Court. It shows that since Complainant did not have any substantial grounds for filling of the Suit; hence he himself has withdrawn the same.
- (b) As an after-thought, Complainant plotted a story in order to safeguard himself from the mis-management/misutilisation/siphoning of the IPO funds. The basis allegation is false on the face of it.

- (c) Complainant informed the BSE that he has fully utilized the IPO funds vide his disclosure to BSE as on 30.09.2011.
 - (d) RKDL pledged its shareholding against the monetary assistance taken from Comfort Intech Limited (CIL).
 - (e) Due to the drastic downfall of share prices of RKDL, CIL informed RKDL to clear its financial dues, but RKDL was unable to return the loan amount of CIL. CIL was then subsequently forced to sell RKDL's security in the open market and recover its outstanding from the company. The matter was settled by giving a disclosure on the BSE website by RKDL and letters were also issued by RKDL to BSE, NSE and SEBI.
 - (f) RKDL also filed a complaint before the RBI. By pursuing Complainant complaint, RBI sent CIL a letter dtd. 22.09.2014 to settle the issue with RKDL. There was no such dispute between CIL and RKDL as stated in the letters dtd. 27.12.2011 of RKDL to BSE and NSE. But, Complainant, by using his political/bureaucratic influence, pursued the complaint before RBI, and RBI directed CIL vide its aforesaid letter to settle the issue with RKDL. CIL did not take any steps to settle the matter with RKDL and replied to RBI stating all the facts vide its letter dtd. 14.07.2014.
 - (g) Ultimately, RBI registered an FIR against the directors of CIL on a different issue altogether. In the RBI's FIR, all the directors approached the Bombay High Court and, in its Order, dated 18.12.2014, the Bombay High Court also commented that RBI's complaint was pursued by a business rival.
 - (h) Subsequently, CIL had also filed a private complaint against its ex-employees in the matter of forging of NOC. The investigation of this complaint is completed, wherein the facts came out that the ex-employees of CIL were the real accused in the matter.
 - (i) On RBI's complaint, the investigation was done by the Enforcement Directorate (ED) and they have clearly mentioned in their Order dated 01.09.2018 that the ex-employees were involved in the forgery.
- iii. The allegations made in the present complaint by the complainant are based on several criminal and civil cases initiated by the complainant to harass the respondent to settle the personal score in various Court of law most of which are pending for final disposal by the concerned Court of law.
- iv. The Complainant had taken out the IPO in a pre-meditated manner with the intention of misusing public funds for his own personal gains. He collaborated with the people who came within his contact and used them for his malafide gains and siphoned off the IPO proceeds. After a span of one and a half years, he started complaining to different authorities against the Respondent and his group companies, by using his political/bureaucratic clout to extort money from the Respondent.

- v. The Complainant has filed a number of false cases against the Respondent out of which most of the cases have been quashed and disposed off by the respective Courts and few of them are pending before concerned authorities/ Courts for adjudication.
- vi. The following matters were disposed off in favour of the Respondent:-
- (a) The Complainant had filed a Civil Suit in Case No. OS No. 103/2013 in R.V. Ravikumar V/s. Liquor India Limited in XVI Addl. District and Sessions Court, Malkajgiri Ranga Reddy Court which was dismissed for default by Order dated 17/07/2019.
- (b) In case no. 216/2018 in Comfort Intech Ltd. and Others V/s. Securities and Exchange Board of India, the order was passed by the Hon'ble High Court by disposing the Appeals by a restraint Order restraining the appellants from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever will come to an end from today.
- (c) All the false cases filed against the Respondent have been dismissed by the respective Court of law or forums.

(vii) The Respondent also provided the status of the following Cases between the Complainant and him:

Sr. No.	Particulars	Date	Status
1.	FIR No. 248/2013 at Nacharam Police station, Cyberabad, Hyderabad, Andhra Pradesh. Filed by "Shri K. Ravi Kumar against Anil Agarwal and company	23.08.2013	Matter is still under investigation
2.	Order in Writ Petition 3389/2013 at High Court, Bombay filed by Anil Agrawal	25.09.2013	Ad- Interim relief granted. Directing police not to take any further steps pursuant to FIR No. 248/2013.
3.	Order in Revision Petition No. 72/2017 filed by state of Telangana represented by EOW. Challenging to set aside the bail order granted by MM court, Cyberabad (25.2.2017)	27.03.2018	Revision was dismissed as there was no merits in the revision petition
4.	Order in Criminal Writ Petition 11292/2013 at High court, Andhra Pradesh filed by Anil Agrawal	07.10.2013	The concerned police was directed to complete the investigation without arresting Anil Agarwal, B.P.

			Jhunhunwala, Satyaprakash, Ankur Agarwal, Pradeep Mundra
4.	Order in Special Leave to Appeal (Cri.) No. 11415-11417/2015 filed by The State of Telangana against the order dated 07.10.2013 of the Andhra Pradesh High Court	27.07.2015	Dismissed
5.	Order in Writ Petition 3389/2013 at High court, Bombay filed by Anil Agrawal	21.02.2014	Petition was withdrawn by Anil Agarwal following the Order in Criminal Writ Petition 11292/2013 dated 07.10.2013 of Andhra Pradesh High Court.
6.	FIR No. 34/2014 at Malad Police station, Mumbai. Filed by "Shri K. Ravi Kumar against Anil Agarwal and company. EOW Cr No. 15/2014	21.01.2014	F.I.R. was quashed following order dated 08.12.2014 of the High court, Bombay in Writ Petition No. 2059/2014
7.	Order in Anticipatory Bail 148/2014 at Sessions court, Bombay filed by Anil Agrawal	23.01.2014	Ad-interim bail granted.
8.	Final Report form in FIR No. 601/2014 filed at Malad Police station, Mumbai by Mr. Jesudas Glauster (Manager of RBI)	08.12.2014	Mr. Anil Agarwal is a witness in this F.I.R.
9.	Order in Anticipatory Bail 1601/2014 at High court, Bombay filed by Anil Agrawal	20.07.2015	Bail was granted
10.	FIR No. MERC 25/2017 filed at Malad Police station, Mumbai by Anil Agarwal against the ex-employees of the company	16.01.2017	Chargesheet is filed against the ex-employees and Anil Agarwal is a witness
11.	Civil Suit OS No. 103/2013 filed by Ravi Kumar in XVI Addl. District and sessions court, Malkajiri, Ranga Reddy court	Filed on 01.02.2013	CALL WITH IAS as on 23/4/2019. Plaintiff is not filing the compilation of documents and delaying matter.
12.	Order in Special Leave Petition no. 25520 of 2015 and 25521 of 2015	29.10.2015	The Supreme Court directed the Learned Addl. District Judge, L.B. Nagar, Andhra Pradesh to dispose off the suit no. 103/13 by June, 2016 but Plaintiff is not filing the compilation of documents and delaying matter.

13.	Order in CDSL in CDSL/LEG/ARBITRATION/MDK/2014/204 filed by Ravi Kumar against M/s Comfort Securities Ltd.	08.10.2014	Does not fall within the purview of arbitration mechanism provided by CDSL (Order passed to approach appropriate court)
14.	Order in Civil Suit No. 324/2014 filed in High Court, Bombay filed by Ravi Kumar Distilleries Ltd. against M/s BLC trading and agencies Pvt. Ltd and ors.	20.11.2015	Suit is disposed off as withdrawn by the Plaintiff (RKDL). The suit is not sustainable, so RKDL withdrew this suit.
15.	Order in Directorate of Enforcement, Mumbai against <ul style="list-style-type: none"> • M/s Comfort Intech Pvt. Ltd • Ankur Agrawal • Bharat Shiroya • Anil Agrawal 	01.09.2017	Fine was imposed upon the authorities. ED held that the Ex-employees are responsible.
16.	Company Petition before NCLT (CLB) at Hyderabad	Filed on 2013	The matter is pending and next hearing is on 06.05.2019.
17.	Order of Reserve Bank of India	14.10.2014	Order is challenged in Delhi High Court
18.	Order in Criminal Appeal No. 339 and 349/2017 Filed by Ravi Kumar	20.02.2017	Pending for Hearing

(viii) Clause 2 of part IV of the First Schedule is the only clause with a qualification that "An opinion of the Council" must be present and be made available, for this particular clause to be invoked for determining the professional misconduct of any member of ICAI.

(B) COMPLAINANT:

4. The Complainant, inter-alia, made the following submissions to substantiate his case:
 - i. E.D. is investigating the case registered against the Respondent under PLMA Act, 2002 and investigation is going on.
 - ii. CID-EOW, Hyderabad, Telangana after the Hon'ble Supreme Court directions are investigating case in full swing. CID-EOW has frozen Bank accounts and Demat Accounts of the Respondent's Companies and his associates. Writ petition of the Respondent before Hon'ble High Court at Mumbai and Hyderabad against freezing of Bank and demat accounts, were dismissed.
 - iii. SEBI is investigating the matter. Personal hearing is over and orders are expected.

- iv. Petition of their Company had filed in NCLT, Hyderabad is being heard and posted on 07.02.2019 for further proceedings.
- v. The Complainant provided the following status of the cases/orders passed in cases filed between the Complainant company and the Respondent:

vi.	Sl.	Authority	Order/Directions/Status
1		SEBI Dated – 12.03.2019	<p>The Respondent was found GUILTY by SEBI for swindling RKDL's IPO funds.</p> <p>The Respondent and his Associates are directed to return Rs.33.83cr with 12% p.a. interest w.e.f. 01.04.2011 to Ravikumar Distilleries Limited.</p> <p>The Respondent and his Associates are restrained from accessing Securities Market for 5 years.</p> <p>The Respondent and his Associates are barred from holding position as Director in any Listed Company for 3 years w.e.f. 01.07.2019.</p> <p>Directors of Ravikumar Distilleries Limited are restrained from accessing the Securities Market for a period of 3 years.</p>
2		Hon'ble Supreme Court Dated 20.02.2017	<p>Order in favour of Ravikumar Distilleries Limited.</p> <p>Hon'ble Supreme Court has directed the Investigation Agencies to take such steps in accordance with the provisions of law against CA. Anil Agrawal.</p>
3		Hon'ble Supreme Court Dated 29.10.2015	<p>Order in favour of RKDL</p> <p>1)The Liquors India Limited and Others shall not alienate the immovable and movable assets of the company.</p> <p>2) The business activities of the respondent company as required according to the rules, namely A.P.Distilleries (Manufacture of IMEL) Rules, 2006, would include grant of sub-leases for the purpose mentioned in the Rules and hence, the same is permitted. The respondent-company shall not create any sub-lease for any other purpose.</p> <p>3). Neither the respondents nor the sub-lessees can claim any right on the basis of the lease created under the Rules. It is clarified that if the</p>

		respondents lose the litigation initiated by the Plaintiff- Petitioners (Ravi Kumar Distilleries Limited), they cannot continue the litigation on the ground that there are people who are on sub-lease basis but can only fight on the basis of their rights. Similarly, the persons, who are given the sub-lease in accordance with the Rules for the purpose of carrying out the activities of the company, shall not put forward any claims before a Court of Law on the basis of the said lease.
4	Hon'ble High Court, Hyderabad Dated 17.10.2013	In favour of RKDL & Andhra Police To continue investigation without arresting CA. Anil Agrawal in the matter of CrI Petition No. 11292 of 2013 by CA Anil Agrawal to quash FIR registered against him by Hyderabad Police for grabbing M/s Liquors India Limited.
5	Hon'ble High Court, Hyderabad Dated 17.10.2014	In favour of RKDL & Andhra Police Directing CA. Anil Agrawal and others to appear before Investigating Officer (IO) from 05.11.2014 to 14.11.2014 for interrogation in the CrI Petition no.12424 of 2014 & CrI Petition No.11292 of 2013.
6	Hon'ble High Court Hyderabad Dated 15.12.2014	In favour of RKDL & Andhra Police Directing accomplice of CA. Anil Agrawal, Mr. B.P.Jhunjunwala and Mr. Sathyaprakash to appear before Investigating Officer from 21.12.2014 to 27.12.2014 for interrogation in CrI Petition CRLPMP No.16143 of 2014 in CrI. Petition No.11292 of 2013
7	Hon'ble High Court, Hyderabad Dated 28.08.2018	In favour of RKDL & Andhra Police Dismissing all 18 CrI.P Nos. 7351, 7364, 7423, 7424, 7485, 7486, 7490, 7492, 7510,7511, 7512, 7516, 7518, 7520, 7552, 7549, 7493 & 7559 of 2018 filed by CA Anil Agrawal and his accomplice against freezing of DEMAT and Bank Accounts order of Hyderabad CID-EOW.
8	Hon'ble High Court, Mumbai Dated 21.02.2014	In favour of RKDL & Andhra Police Dismissing the CrIWP No.3389 of 2013 with CrI Application No.508 of 2013 by CA. Anil Agrawal against the FIR registered against him by Andhra Police.
9	Hon'ble High Court, Mumbai	In favour of CA. Anil Agrawal. But overruled by Hon'ble Supreme Court.

	Dated 08.12.2014	Directing the FIR registered by EOW, Mumbai is not maintainable on grounds that similar FIR was already registered by Hyderabad Police, in WP No. 2059 of 2014.
10	Hon'ble High Court, Mumbai Dated 22.11.2017	In favour of RKDL & Andhra Police Dismissing all 12 Cr WP filed by CA Anil Agrawal and his accomplice against the order of Hyderabad Police freezing DEMAT and Bank Accounts.
11	National Company Law Tribunal, Hyderabad Dated 02.02.2018	In favour of RKDL Allowing filing of Amended Petition in CP No. 5 of 2013 (TP No.148/HDB/2016) in the matter of grabbing of Liquors India Limited, Hyderabad from RKDL by CA. Anil Agrawal.
12	National Company Law Appellate Tribunal, New Delhi Dated 23.08.2018	In favour of RKDL Dismissing the Appeal filed by CA. Anil Agrawal against the order of NCLT, Hyderabad in CP. No.5 of 2013 (TP No. 148 of 2016) in the matter of grabbing of Liquors India Limited from RKDL by CA. Anil Agrawal.
13	II Metropolitan Magistrate Court, Hyderabad Dated 27.03.2018	In favour of CA Anil Agrawal Bail granted with condition to accomplice of CA. Anil Agrawal (Mr. B.P. Jhunjunwala & Mr. Sathyaprakash) in Crl MP no.397 & 398 of 2017 and revision Petition Crl.RP no.72 & 73 of 2017 against the arrest by CID-EOW Hyderabad, but to co-operate with the Investigations.
14	NCLT, Hyderabad April 2013	CP. No.5 of 2103 (TP No.148/HDB/2016) u/s 111A filed by RKDL against CA Anil Agrawal & others in the matter of grabbing of Liquors India Limited from RKDL by CA Anil Agrawal. Posted on 5.4.2019 With directions to CA. Anil Agrawal that no further adjournment will be given to Respondent CA Anil Agrawal if additional counter is not filed, and matter will be taken up for hearing on the main Petition.
15	NCLT, Chennai May 2013	CP No.30 of 2013 filed by CA. Anil Agrawal u/s 397 & 398 alleging RKDL and its Promoter Ravikumar have swindled IPO funds. Argument over in August 2018. Orders pending on Maintainability.

		Subsequent to SEBI orders where-in SEBI has found that it is CA. Anil Agrawal has only swindled RKDL's IPO funds and has directed CA. Anil Agrawal to return Rs.33.83 cr of RKDL's IPO funds back to RKDL with 12% p.a interest w.e.f 01.04.2011, the CP filed by the Respondent awaits order in accordance to Law.
16	Hon'ble High Court, Mumbai 2013 & 2014	Recovery Suit filed by RKDL against CA. Anil Agrawal and his Company - M/s. ComfortIntech Limited and his Conduit Companies -M/s. Ranisati Dealers P Ltd -M/s. Sukusama Trading & Investments P Ltd -M/s. GulistanVanijya P Ltd -M/s. Gaungour Suppliers P Ltd -M/s. Vibhuti Multi Trade Pvt.Ltd. Pending. -RKDL withdrew the Recovery suit filed against M/s. BLC Trading & Agencies P Ltd by RKDL, and filed comprehensive Recovery suit against Comfort Intech Ltd.
17	Metropolitan Magistrate Court, Malkajgiri, Hyderabad, Dated 04.02.2013	O.S No.103 of 2103 filed RKDL against CA Anil. Pending. Next hearing on 23.04.2019.
18	Enforcement Directorate, Mumbai & Hyderabad. 2014	ED has registered ECIR/MZO/05/2014/GCP/RV dated 17.04.2014. Investigation going on.
19	CID-EOW, Hyderabad Dated 23.08.2013	FIR No.248/2013 dated 23.08.2013 Registered. Investigation going on. Investigation found that: -RKDL's IPO funds was siphoned off by CA. Anil Agrawal through conduit companies. -No cheque was presented against the alleged loan and bank documents forged. -CA. Anil Agrawal grabbed RKDL shares from Ravikumar by forging RAVIKUMAR DIST documents. -CA. Anil Agrawal extorted monies and Liquors India Limited from Ravikumar to return RKDL shares. CID-EOW, Hyderabad has frozen DEMAT & Bank Accounts of

		<ul style="list-style-type: none"> - CA. Anil Agrawal, - Comfort Intech Limited - Comfort Securities Limited - Comfort Fincap Limited. <p>His family members</p> <ul style="list-style-type: none"> -AnnuAgrawal, wife. -AnkurAgrawal, son. <p>His Benami companies.</p> <ul style="list-style-type: none"> -Ranisati Dealer Private Ltd., -BLC Trading Agencies Limited. -Sukusama Trading & Investments P Ltd., <p>His Associates</p> <ul style="list-style-type: none"> -Priya Blue Industries Ltd -First Financial Services Ltd -Padma Impex P Ltd, -Syncom Formulations (India) Ltd.
20	Mumbai Police, Malad, Mumbai 2014	M.E.C.R. No. 2/2014 registered against RKDL & Directors based on complaint by CA. Anil Agrwal. Malad Police has filed Closure Report to Additional Metropolitan Magistrate Court Boriwali.

OBSERVATIONS OF THE BOARD:

5.1 On perusal of the documents and submissions on record, at the outset, the Board observed that the Respondent raised objection regarding the opinion of the Council as stipulated in Item (2) of Part IV of the First Schedule. In this regard, 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.

5.2 As regard the charge alleged, the Board referred to the following paras of the Investigation report dated 13th December, 2013 submitted by CA. Chetan Dalal to Economic Offences Wing:-

" 2. Details of the complaint: R.V. Ravi Kumar, MD of Ravi Kumar Distilleries Ltd. against Mr. Anil Agrawal, MD of Comfort Securities Ltd. The Complainant has alleged:-

- Clandestine Diversion of Funds of Rs. 29.10 Crores (subsequently we were informed the amount aggregated to Rs. 33.76 Crores)
- Fraudulent Disclosure under SAST (Substantial Acquisition Shares transfer) disclosure to BSE on 5th December, 2011- that RKDL has pledged shares with a Company owned by Anil Agarwal.
- Due to dishonour of cheque amounting to Rs. 7.49 crores, ostensibly for a loan repayment by RKDL to the Comfort Group, AA (i.e. the Respondent) invoked the above pledging of shares, and sold 51.77% shares. The Complainant alleges that the cheque was not issued by him.
- AA (i.e. the Respondent) coerced and threatened RV and forced him to transfer Liquor India Ltd. (estimated to be worth Rs. 40 Crores).

4.2 We have not been provided any evidence to show that RKDL had indeed taken any such loan from the Comfort Group, or whether they had pledged the shares. The dishonour of the cheque has also not been confirmed by the bank concerned. In addition, there have been several circumstantial findings such as non-availability of the sanction letter, the loan agreement, the original cheque and bank advise for cheque returned, the calculation of interest etc. These findings support the submission that there was no such loan or pledging or dishonour of the cheque of Rs. 7.49 Crores.

7.5 *There is a need to conduct a very penetrative investigation which can be done with a mandate much stronger than the preliminary inquiry where all summoned parties are compelled to come, furnish details, allow searches, email reviews, and where bank details/confirmation are insisted upon”.*

- 5.3 The Board also took into view the submissions made by EOW, Mumbai before Hon’ble Sessions Judge Mumbai vide their letters dated 13th September, 2014, 11th April, 2014, 26th March, 2014, 7th February, 2014 which were based upon its detailed investigation report especially the following para of letter dated 7th febraury, 2014 by EOW, Mumbai to Hon’ble Sessions Judge, Mumbai:-

“The applicant accused is a Chartered Accountant and has in depth knowledge of financial transactions and as such he clandestinely siphoned off the amount in a very clever manner. He has created a web of transactions to camouflage his wrongful gain. He diverted money through different companies either controlled by him directly or indirectly. He committed criminal breach of trust by utilizing blank signed cheques and other documents entrusted to him by the Complainant in good faith. It’s not simply a case of settling the account but has a wide ramification because he has transferred monies through companies based in other states like west Bengal, Gujrat, Tamil Nadu and Andhra Pradesh”.

Also, in the letter dated 13th September, 2014 addressed by EOW, Mumbai to Hon’ble Sessions Judge, Mumbai, it is, inter-alia, stated as hereunder:-

“During the course of investigation, official website of Registrar of Companies viz mca.gov.in was visited and information/details of associated/conduit companies was sought. From the concurrent study of information available on the, said website and statements of accounts of these companies and statements of witnesses, it is transpired that these companies are related to applicant accused Anil Agrawal directly or indirectly. Thus, from the material available it is clear that an amount of Rs.33.76 crores was siphoned off to these companies by the applicant accused Anil Agrawal by misusing blank signed cheques entrusted by the complainant to the applicant accused for IPO related expenses. He has created a web of transactions to camouflage his wrongful gain. He diverted money through different companies either controlled by him directly or indirectly.”

- 5.4 Further, the Board also took into view the contents of the letter dated 1st December 2014 issued by Axis Bank Ltd. in the context of charge relating to the cheque return memo of the Complainant’s Company being forged by the Respondent:-

“We hereby confirm that we are unable to provide any evidence in the presentment of cheque no. 515722 dated 15.12.2011 Amount Rs. 7,49,08,025 in favour of M/s Comfort Intech Ltd. from the account of M/s Ravikumar Distilleries Ltd. Also, the Cheque Return Memo shown to us is also not the regular form used by our branch. We are also not able to find any register for the entry of cheque return. However, we also confirm that there

was no available balance up to the amount of Rs. 7,49,08,025/- maintained in the account of M/s Ravikumar Distilleries Ltd. Also, we are unable to identify the signature of the staff which is done on the cheque return memo”.

5.5 The Board further noted that the Complainant brought on record a copy of the Charge-sheet dated 23/08/2013 wherein with respect to the present matter the following charge has been stated (and the Respondent is one of the accused i.e. A2):

“Further accused A-2 Anil Beniprasad Agrawal floated A-45 Comfort Intech Limited with connivance of A-61 Annu Anil Agrawal, A-46 Bharat Nanubhai Shiroya, A-47 Jugal Chandrakant Thacker, A-48 Anand Hariprasad Agarwal, A-49 Janak Gunvantrai Mehta and diverted the funds of IPO to the tune of Rs. 2,86,86,536/- from RKDL account and routed the money through A-45 Comfort Intech Limited with connivance of A-61 Annu Anil Agrawal, A-46 Bharat Nanubhai Shiroya, A-47 Jugal Chandrakant Thacker, A-48 Anand Hariprasad Agarwal, A-49 Janak Gunvantrai Mehta wherein he created fictitious debit and further fake pledge documents and received the amount from IPO funds and took away the shares of RKDL. Thereby accused A-2 Anil Beniprasad Agrawal, A-61 Annu Anil Agrawal, A-46 Bharat Nanubhai Shiroya, A-47 Jugal Chandrakant Thacker, A-48 Anand Hariprasad Agarwal, A-49 Janak Gunvantrai Mehta have committed the offence punishable u/s 406, 409, 420, 468, 471, 120(B) IPC.”

5.6 Furthermore, the Board noted that the Complainant brought on record the Order(s) of Securities and Exchange Board of India dated 21st August 2020 wherein the SEBI observed as under and thereon imposed the penalty on the Respondent as stated hereunder:

“In view of the discussions above regarding the siphoning of funds, I conclude that a fraudulent scheme synchronized by the RKDL, CSL, their directors and other notices associated with CSL and its connected entities was employed by them to siphon off funds to the tune of Rs. 33.83 crore from the IPO proceeds of the RKDL through series of circuitous transfers involving creating artificial liability in the books of RKDL. The device employed by RKDL & CSL was such that funds were transferred prior to the IPO issue, in the account of RKDL in the garb of loans taken which were then purportedly repaid using the funds from IPO proceeds. However, on receiving the loan, the funds were not utilized by RKDL for any genuine business purpose but were immediately transferred to several entities connected to CSL in a circuitous manner. Thus, an artificial liability was created on RKDL by way of these fictitious loans which were settled using IPO proceeds. Therefore, the net effect of such fraud is siphoning of the IPO proceeds of RKDL. Therefore, I conclude that the notices are liable for penalty as per the details given below:”

<u>S.No.</u>	<u>Name of the notice</u>	<u>Penal Provisions</u>	<u>Penalty Imposed</u>
10.	Comfort Securities Limited	Section 15HA of the SEBI Act	Rs. 5,00,00,000/- (Rs. Five Crore only)
		Section 15HB of the SEBI Act	Rs. 1,00,00,000/- (Rs. One Crore only)
11.	Anil B. Agrawal	Section 15HA of the SEBI Act	Rs. 5,00,00,000/- (Rs. Five Crore only)
		Section 15HB of the SEBI Act	Rs. 1,00,00,000/- (Rs. One Crore only)

The Board also noted that the period of appeal against the said orders is 45 days however, no evidence has been brought on record to show that the said Order had been appeal against by the Respondent.

5.7 In view of the aforesaid observations, the Board was of the view that both the Complainant and the Respondent had filed complaints/writ petitions against each which were being contested in separate Court of Law, however, the Board was concerned with the conduct of the Respondent as a Chartered Accountant and accordingly examined him. The Board was of the view that sufficient corroborative documentary evidence have been brought on record by the Complainant which prove that the conduct of the Respondent in the explained circumstances was not proper and thus, he by his conduct has certainly brought disrepute to the profession. 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 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.

Sd/-

CA. Rajendra Kumar P

(Presiding Officer)

DATE: 18-12-2023

Sd/-

Ms. Dolly Chakrabarty (IAAS, retd.)

(Government Nominee)

सही प्रतिलिपि होने पर लिए समाहित
Certified as be true copy

Geetha

गीता अग्रुदिया कुमर / GEETHA ANGRUDIA KUMAR
कार्यालय अधिकारी / Executive Officer
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