



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

[PR/69/2020/DD/85/2020/BOD/625/2022]

ORDER UNDER SECTION 21A (3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 15(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007

In the matter of:

CA. Nidhi Siotia

JMD Industries,

Flat No 202, 2nd Floor, Plot No 10, Above Anand's Chic

Sector-5, Vaishali

Ghaziabad 201010.

... Complainant

-Vs-

CA. Rajeev V. Gupta (M.No. 078243)

9/132, Sector 3,

Rajendra Nagar, Distt Ghaziabad

Sahibabad -201005.

... Respondent

[PR/69/2020/DD/85/2020/BOD/625/2022]

MEMBERS PRESENT (in person):

CA. Rajendra Kumar P, Presiding Officer

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

CA. Priti Savla, Member

Date of Hearing and passing Order: 11th January 2024

1. The Board of Discipline vide its Findings dated **28th December 2023** was of the view that **CA. Rajeev V. Gupta (M.No. 078243)** 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. Rajeev V. Gupta** and communication dated **4th January 2024** was addressed to him thereby granting him an opportunity of being heard on **11th January 2024**, for which he vide email dated **10th January 2024** communicated that he won't be able to join the meeting neither physically nor virtually. Also, he has nothing more to say/ submit before the Honorable Board except that the documents considered by Hon'ble Board to hold him guilty were of personal nature and agreed to be signed on the terms if anything adversely affect the Complainant. He also requested the Board to take a lenient view in the matter keeping in view his past record and commitment towards profession in the past.

3. Thus, upon consideration of the facts of the case, the consequent misconduct of **CA. Rajeev V. Gupta (M.No. 078243)** and keeping in view his written representation before it, **the Board decided to Reprimand CA. Rajeev V. Gupta (M.No. 078243).**

Sd/-

CA. Rajendra Kumar P
(Presiding Officer)


Sd/-

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

Sd/-

CA. Priti Savla
(Member)

सही प्रतिलिपि प्रमाणित है।
Certified to be true copy


अरुण कुमार / Arun Kumar
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनसम्बन्धित निर्देशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आर्जेन्टीपार्क भवन, शिवाजी नगर, शाहदरा, दिल्ली-110032
ICA 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/69/2020/DD-85/2020/BOD/625/2022]

CORAM:

CA. Rajendra Kumar P., Presiding Officer (in Person)
Ms. Dolly Chakrabarty, IAAS, retd., Government Nominee (In Person)
CA. Priti Savla, Member (through video conferencing)

In the matter of:

CA. Nidhi Siotia,
JMD Industries,
Flat no. 202, 2nd Floor, Plot no. 10, Above Anand's Chic,
Sector 5, Vaishali
Ghaziabad 201010.

.....Complainant

Versus

CA. Rajeev V. Gupta (M.No.078243)
9/132, Sector 3, Rajendra Nagar,
Distt Ghaziabad,
Sahibabad 201005.

..... Respondent

DATE OF FINAL HEARING : 4th October 2023

PARTIES PRESENT(in person):

Complainant : CA. Nidhi Siotia
Counsel for Complainant : Sh. Sukhmeet Singh, Advocate

FINDINGS:

Brief facts of the case:

1. The Complainant is a partner in the firm M/s Manoj Ram Gupta and Associates (hereinafter referred to as the "Respondent Firm/Firm"). She was approached by Respondent, to join his firm as a partner. She was looking for 'work from home'

B. S.

assignments as she had a small baby and the Respondent gave her the assurance that there would not be much work pressure and that she would be able to do work from home. Therefore, she joined the firm M/s Manoj Ram Gupta and Associates on 28.10.2013. After some time she got to know that the Respondent was himself not a partner in the firm. On objection by Complainant, Respondent revealed that he was managing all the workings of the two firms –

- (a) M/s Rajeev Kamlesh Gupta and Co. (008956C), and
- (b) M/s Manoj Ram Gupta and Associates (014785C).

Both these firms have the same address. As per Complainant, the Respondent said that although the Respondent is not being shown as a partner in M/s Manoj Ram Gupta and Associates, but he is handling all the affairs of the firm and all business is being done by him and under his guidance in the Firm. He i.e., the Respondent urged her to continue being a partner in the firm to maintain the firm's standing. The Complainant agreed on good faith as any partnership is founded on trust and confidence. Since year 2013, she was never given any opportunity to participate in working of the Firm. In the initial years she had a small baby to look after but as her child grew up and she started expressing her desire to work in the firm, she was told that there is not much business in the firm and that the Respondent is trying to source business. As there was not much work pressure for her, she enrolled for DISA and cleared the DISA exam in December 2016. After this, she expressed her intention to work more powerfully but whenever, she expressed her desire to work, she was just given some meagre salary on account of her Partnership and said that there is not enough business in the firm and that she herself need to source business in order to work. As she was not having much work Opportunity in the Firm, she expressed her desire to leave the firm, but then the Respondent said that the business is improving and that she would soon get an opportunity to work and also she started getting a meagre monthly salary on account of work that she would be assigned. In April 2019, she was determined to resign, but the Respondent begged her to continue in the Firm, else the standing of his Firm would get affected. On 08.01.2020 she tried to create her Authorised Representative Chartered Accountant (ARCA) account in the Income Tax site to upload a Balance Sheet. She was shocked to know that her account already existed there. On opening the account, she found mobile number 9911356966 and email address manojram0509@rediffmail.com there. Neither mobile number nor email id pertained to the Complainant. On checking further, she found several Balance Sheets and other

Bis

documents filed under her ID with her fake signature by the Respondent & the Firm M/s Manoj Ram Gupta and Associates (014785C). All these documents have been signed without her knowledge and authority. They do not contain her signature, rather her signatures have been forged there. Moreover, the Complainant came to know from the site that a digital signature in her name was created before 01.07.2018 without her knowledge and permission. That forged Digital Signature was used at a number of places without her knowledge, consent and authority. Further, her Digital Signature that she created on 01.07.2018 was also used by the Respondent & the Firm M/s Manoj Ram Gupta and Associates (014785C) without her knowledge and consent at several places. The Complainant stated that her signature in ICAI has been the same from 2009 to the present date, and the same signature is also uploaded on SSP Portal. But her CA Membership Fee was paid by either the Respondent or the Firm (M/s Manoj Ram Gupta and Associates) and the Complainant had doubt that her signature in ICAI has been deliberately changed, without her knowledge and permission. This act is done with the intention of forging her signature on Balance Sheets and other documents. The Complainant's trust and confidence has been breached.

CHARGE(S) ALLEGED:

- 2.1 The Respondent breached the trust of Complainant by creating Authorised Representative Chartered Accountant (ARCA) account on Income tax website in the name of Complainant without her consent and knowledge.
- 2.2 The Complainant's digital signature was misused by the Respondent without her consent and knowledge.

BRIEF OF PROCEEDINGS HELD:

3.

S.No.	Date of Hearing(s)	Status of hearing(s)
1.	17 th May, 2023	Heard and concluded with a direction to the office to exchange the further written submissions filed by both the Complainant and the Respondent between them enabling them to provide their comments thereon, if any.

B. S. S.

		Accordingly, the decision on the conduct of the Respondent was kept reserved by the Board.
2.	4 th July, 2023	Both the Complainant and the Respondent submitted documents during the course of the hearing on 17 th May 2023 to substantiate their case before the Board. The said documents had been exchanged with the other party to the case to seek their comments thereon, if any, which had been received from both the Complainant and the Respondent. In view of the response so received from both the parties to the case and keeping in view the principle of natural justice, the Board was of the view that it would be just if both the parties to the case are given another opportunity to substantiate their case before the Board. Accordingly, the Board decided to rehear the parties to the case.
3.	4 th October, 2023	The Respondent was not present before the Board and had sent across an e-mail dated 3 rd October 2023 stating that he admits the contents of the documents submitted on record by the Complainant along with her further Rejoinder on his Written Submissions dated 17 th May 2023 viz. MOU, Indemnity Bond and Dissolution deed, all dated 14 th September 2021. He further submitted that he has nothing further to submit in this matter and he pleads guilty of the charges that are before the Board for hearing with a request to take a lenient view in the matter. He also expressed his inability to attend the hearing due to his health condition. Thus, the hearing was concluded on the basis of documents and submissions on record.

BBS

BRIEF SUBMISSIONS OF THE PARTIES TO THE CASE:

(a) Respondent:

4. The Respondent in his defense, inter-alia stated as under:

4.1 The Respondent is an exclusive Partner in Rajeev Kamlesh Gupta & Co., Chartered Accountants from 31/12/2001 of M/s Rajeev Kamlesh Gupta & Co, Chartered Accountants.

4.2 M/s Manoj Ram Gupta & Associates, Chartered Accountants, was a well-known firm to the Respondent and he had performed various works on behalf of them as per ICAI norms. The Respondent complied with all the provisions of relevant laws while performing his duties.

4.3 He has never been involved in any malpractice during his practice and has performed his duties to the best of his knowledge & abilities.

(b) Complainant:

5. The Complainant made the following submissions to substantiate her case:

5.1 The Respondent is the exclusive partner in M/s Rajeev Kamlesh Gupta & Co., Chartered Accountants from 31/12/2001 which is technically correct but at the same time he has been the defacto controlling authority in the Firm M/s Manoj Ram Gupta & Associates, Chartered Accountants. To substantiate that the Respondent was in fact the defacto controller of M/s Manoj Ram Gupta & Associates, Chartered Accountants, the Complainant referred to the following:

i) As per ICAI Records, the Branch Address of M/s Manoj Ram Gupta & Associates, Chartered Accountants is 9/132 SECTOR-3, RAJENDRA NAGAR, DIST GHAZIABAD, SAHIBABAD, UTTAR PRADESH, INDIA, 201005 and as per the VISA Application of the Respondent, the same address is the PERMANENT RESIDENTIAL ADDRESS of the Respondent since July 1995 and currently the Firm of the Respondent, M/s Rajeev Kamlesh Gupta & Co., Chartered Accountants is also registered at this address.

If the Respondent has only professional relations with M/s Manoj Ram Gupta & Associates, Chartered Accountants, then why he has allowed the Branch Office of M/s Manoj Ram Gupta & Associates, Chartered Accountants to be registered at

B. S. S.

his permanent residential address. The Respondent infact has opened this Firm M/s Manoj Ram Gupta & Associates, Chartered Accountants and carries out various assignment in it under the fabricated signature of the Complainant.

ii) As per ICAI Records, the head office Address of M/s Manoj Ram Gupta & Associates, Chartered Accountants C/o SRI S C GUPTA, 779/11 is RADHA NAGAR, INFRONT OF BIJLI GHAR, NEAR ANAND FACTORY, BULANDSHAHR, UTTAR PRADESH, INDIA, 203001. The said address at one point of time was used by the Firm of the Respondent, Rajeev Kamlesh Gupta & Co. Incidentally, it is a forgery complaint by CA. Pooja Sharma against the Respondent and his firm.

5.2 The Respondent has run the affairs of the firm, M/s Manoj Ram Gupta & Associates as per his discretion by fabricating and forging the signatures of the Complainant on several Balance Sheets and other documents and filed them under her ID with her fake signatures. All these documents have been signed without the knowledge and authority of the Complainant.

5.3 Moreover, the Complainant came to know from the site that a digital signature in her name was created before 1.7.2018 which was without her knowledge and permission and was used at a number of places without her knowledge, consent and authority. This has been well admitted by the Respondent in MOU signed by him.

5.4 The Complainant later found out that many Audits Reports, Balance Sheets and other documents of various clients/Banks were signed under her name, without her authority by forging her signatures.

5.5 The Respondent has signed the following three crucial documents wherein he has accepted his wrongdoings:

- (a) Memorandum of Understanding
- (b) An Indemnity Bond, and
- (c) Dissolution Deed of the firm M/s Manoj Ram Gupta and Associates

5.6 The Respondent has signed an Indemnity Bond with the Complainant. Kindly note that the Indemnifier in the Bond is the Respondent himself. The Respondent has signed an MOU with the Complainant. In Part II of the MOU, the Respondent being the First Party

Bigg

has categorically accepted that he has been managing the day-to-day affairs of the firm, M/s Manoj Ram Gupta and Associates.

5.7 Also, the report of the handwriting expert says that all forged signatures in various Balance Sheets belong to the same person and that these forged signatures are not mine.

OBSERVATIONS OF THE BOARD:

6.1 The Board noted that the Complainant was a partner in the firm M/s Manoj Ram Gupta and Associates. She informed that she was approached by the Respondent, to join his firm as a partner. She was looking for 'work from home' assignments as she had a small baby, and the Respondent gave her the assurance that there would not be much work pressure and that she would be able to do work from home. Therefore, she joined the firm M/s Manoj Ram Gupta and Associates on 28.10.2013. After some time, she got to know that the Respondent was himself not a partner in the firm. On objection by her, the Respondent revealed that he was managing all the workings of the two firms – M/s Rajeev Kamlesh Gupta and Co. (008956C), and M/s Manoj Ram Gupta and Associates (014785C). The Board noted that the Complainant alleged that the Respondent had misused her digital signatures as well as created Authorised Representative Chartered Accountants (ARCA) account on Income Tax website in her name without her consent and knowledge.

6.2 The Board noted that in Authorised Representative Chartered Accountants (ARCA) account in the name of the Complainant, the login details on Income Tax website does not consist of mobile number and email id of the Complainant. The Board further noted that the Complainant brought on record the financial statements of the following entities under her name/signature on her Authorised Representative Chartered Accountants (ARCA) account in the Income Tax website :

- (a) M/s Mavi Hospital Private Limited for financial year 2017-18
- (b) M/s Vikas Vati & Associates, Chartered Accountants for financial years 2016-17 and 2017-18
- (c) M/s Associated Machinery Corporation Limited for financial year 2013-14
- (d) M/s National Agro fertilisers for financial year 2013-14
- (e) M/s Arankari Risk Management Services Private Limited for financial year 2013-14



- (f) M/s Balaji Texfab Private Limited for financial year 2013-14
- (g) Tax Audit report of M/s Usher Agencies Pvt Ltd for financial year 2013-14
- (h) M/s Silvertoe Mfg. Co. of India Pvt Ltd for financial year 2013-14 and
- (i) M/s Apex Fertilisers Private Ltd for financial year 2013-14.

On perusal of the aforesaid documents, the Board observed that it is clearly visible that the signatures of the Complainant on financial statements of M/s Vikas Vati & Associates, M/s Associated Machinery Corporation Limited, M/s Arankari Risk Management Services Pvt Ltd. And M/s Balaji Texfab Pvt Ltd. are different from the one on the Complaint. The Board also noted that the Complainant brought on record report of a handwriting expert to the effect that the questioned signatures of the Complainant on the Financial Statement of M/s Balaji Texfab Pvt Ltd. for financial year 2013-14, M/s Vikas Vati & Associates for financial year 2017-18 and M/s Arankari Risk Management Services Private Limited for financial year 2013-14, are different from her standard signatures.

6.3 The Board also took into view the letter dated 19th November 2013 issued by the Institute of Chartered Accountants of India wherein the Re-constitution of M/s Manoj Ram Gupta & Associates was affirmed by the Institute on the basis of filing of Form-18 by the Firm wherein the Complainant was one of the Partners in the Firm with effect from 28th October, 2013. The Board also took into view the copy of Form-18 dated 6th November 2013 wherein the Complainant has been named as the Partner in the Firm and signatures of the Complainant is also there.

6.4 The Board further noted that the Complainant brought on record the following three documents to establish the misconduct on the part of the Respondent:

- i. Indemnity Bond dated 14th September, 2021.
- ii. Memorandum of Understanding dated 9th September 2021.
- iii. Dissolution deed dated 9th September 2021.

The Board perused the copy of the duly notarized Indemnity Bond dated 14th September, 2021 wherein Indemnified refers to the Complainant and the Indemnifier refers to the Respondent, duly signed by the Respondent as Indemnifier, inter-alia, with the following contents:

Bigg

"i. The indemnifier is/was responsible for handling all the affairs/day to day affairs of the Partnership Firm namely M/s Manoj Ram Gupta & Associates, despite the fact he was not the actual partner in the firm.

ii. The Indemnifier was/shall remain responsible for all the acts & deeds by the Firm including but not limited for conducting/finalising various Audit Reports, Balance Sheets or other accounts in that regard of its clients and uploaded the same under the name and signature of the Indemnified."

The Board also perused the copy of the duly notarized Memorandum of Understanding dated 9th September, 2021 wherein Second Party refers to the Complainant and the First Party refers to the Respondent, duly signed by both the Respondent and the Complainant, inter-alia, with the following contents:

"Part-I

i) The Second Party also created her first digital signature on 01.07.2018. however, later on it was transpired to her that her signatures have been created previously without her knowledge and authority. The Digital signatures which were created before 01/07/2018, are illegal and forged. The parties further confirms and admits that the signatures which were created on 01/07/2018 by the second party were authorised to use only for the purpose of uploading the Firm's Income Tax Return and any usage of the same except this would amount to unauthorized usage of Digital Signature without any consent of the second party.

j) Second Party while trying to create ARCA (Authorized Representative Chartered Accountant) account on the website on Income Tax got to know her Id was already created without her consent and authorization. On further inquiry, she got to know that her forged and faked digital signature also existed. All this led to suspicion in the mind of the Second party towards First party, and accordingly she requested him to provide various information vide her email dated 22.01.2020.

k) The First party neither could provide any satisfactory explanation to email dated 22.01.2020 nor provide the documents sought in that email. However, on consistent persuasion, the First party admitted to the fact that for business purposes he created fake id of the Second Party and also forged the signatures of the Second Party.

Bigg

Part-II

B. First Party confirms and admits that for the purpose of managing business in the Firm he created ARCA id of the Second Party without her consent and knowledge. He further confirms and admits that he also created digital signature of the Second party prior to 01.07.2018 which were used by him for the business purpose of the Firm without any knowledge, consent and authority of the Second party.

H. First party confirms and admits that during the course of business transactions of the Firm various Audit Reports, balance Sheets etc. of the clients were either signed or uploaded by him or his agents (not by the Second party) by putting/affixing the fake or forged id/signature/digital signature of the Second party or by using her ARCA account."

The Board also perused the copy of the duly notarized Dissolution Deed dated 9th September, 2021 of the firm M/s Manoj Ram Gupta and Associates wherein Second Party refers to the Complainant and the Confirming Party refers to the Respondent, duly signed by both the Respondent and the Complainant in the said capacity, inter-alia, with the following contents:

"

11.All Parties confirm that the access of Firm's Email account being manojram0509@rediffmail.com was not provided to the Second party till 22.06.2021. also, she was never given any access to the Firm's phone no. viz. 9911356966, 9250970154 and 9818036810. Except the above email, second party was not provided with any access to other email ids of the Firm or aware of any other mobile number besides as mentioned above. All parties confirm that second party was never given access to the Books of accounts of the firm or its clients. All parties agree that during the course of her partnership in the firm she has never signed any balance sheet, audit report, account/audit statement, certification etc. in the firm."

6.5 The Board also noted that the Respondent vide his email dated 3rd October 2023 pleaded guilty in respect of the charge alleged. The content of the email is as under:

"..... I wish to state that I admit the contents of the documents submitted on record by the Complainant along with her further rejoinder on my written submissions dated 17th May, 2023 viz MOU, Indemnity Bond and Dissolution Deed all dated 14th September, 2021.

Bigg

Please further note that I have nothing further to submit in this matter and I plead guilty of the charges that are before the BOD for hearing with a request to take a lenient view in the matter."

6.6 Thus, in view of the admission of guilt on the part of the Respondent together with the documents on record reflecting his improper conduct, the Board held the Respondent guilty in respect of the charge alleged.

CONCLUSION:

7. 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)

Sd/-

Ms. Dolly Chakrabarty (IAAS, retd.)

(Government Nominee)

Sd/-

CA. Priti Savla

(Member)

DATE: 28-12-2023

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

बिष्णु नाथ तिवारी / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय, Charismatic Directorate
इंस्टीट्यूट ऑफ चार्टर्ड अकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आई.सी.ए.आई. बिल्डिंग, प्लॉट नंबर, एम.ए.ए. रोड, दिल्ली-110032
ICAI Bldg, Vasant Nagar, Saket, Delhi-110032