



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

[PR-39/2020/DD-76/2020/BOD/649/2022]

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. Radheshyam Jagannath Singhania (M. No. 009871)  
209, 2nd Floor, Goyal Shopping Arcade  
Opp Station, Borivli -W  
Mumbai – 400092.

.....Complainant

-Vs-

CA. Girish Harendranath Vasudeo (M. No. 038277)  
A-502, Raj Sunflower  
Royal Complex  
Eksar Road, Borivali (West)  
Mumbai – 400091.

.....Respondent

[PR-39/2020/DD-76/2020/BOD/649/2022]

MEMBERS PRESENT:

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

Date of Hearing and passing Order: 23<sup>rd</sup> January 2024

1. The Board of Discipline vide its Findings dated 28<sup>th</sup> December 2023 was of the view that CA. Girish Harendranath Vasudeo (M. No. 038277) is GUILTY of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against CA. Girish Harendranath Vasudeo (M. No. 038277) and communication dated 16<sup>th</sup> January 2024 was addressed to him thereby granting him an opportunity of being heard on 23<sup>rd</sup> January 2024 which was exercised by him by being present through video conferencing. He confirmed receipt of the Findings of the Board. He also requested the Board to take a sympathetic view in the case as it was the first ever case of misconduct against him in his several years of practice. He also referred to his written representation on the Findings of the Board made vide communication dated 22<sup>nd</sup> January 2024.
3. Thus, upon consideration of the facts of the case, the consequent misconduct of CA. Girish Harendranath Vasudeo (M. No. 038277) and keeping in view his oral and written representation before it, the Board decided to impose a Fine of Rs.25,000/- (Rs. Twenty-Five Thousand only) upon him.

M/-

Sd/-

CA. Rajendra Kumar P  
(Presiding Officer)

Sd/-

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

सही प्रतिलिपि होने के लिए प्रमाणित  
Certified to be true copy

मीनू गुप्ता / Meenu Gupta  
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
आईसीएआई भवन, विश्वास नगर, शान्दा, चेन्नई-110032  
ICAI Bhawan, Vishwas Nagar, Shandra, Chennai-110032

Sd/-

CA. Priti Savla  
(Member)

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-39/2020/DD-76/2020/BOD/649/2022]**

**CORAM: (Present in Person)**

**CA. Rajendra Kumar P, Presiding Officer**

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

**In the matter of:**

**CA. Radheshyam Jagannath Singhania (M. No. 009871)**

A/209, 2<sup>nd</sup> Floor,

Oppo. Railway Station

Goyal Shopping Arcade, Borivali (West)

Mumbai – 400092.

.....Complainant

**Versus**

**CA. Girish Harendranath Vasudeo (M. No. 038277)**

A-502, Raj Sunflower

Royal Complex

Eksar Road, Borivali (West)

Mumbai – 400091.

.....Respondent

**DATE OF FINAL HEARING**

;

**31<sup>st</sup> August 2023**

**FINDINGS: -**

**CHARGES ALLEGED:**

- 1.1 The Respondent accepted the position of Statutory Auditor of Chogle Families Shri Vithal Maruti Panchayatan Devasthan Trust (hereinafter referred to as "Trust") for F.Y. 2016-17 without communicating with previous auditor (i.e. the Complainant) in writing.
- 1.2 The Complainant's fee for IT Returns for F.Y. 2011-12 to 2013-14 and fee for TDS Returns amounting to total of Rs. 25,680/- was not cleared prior to the acceptance of the appointment.

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The Board noted that the Director (Discipline) in his Prima Facie Opinion held the Respondent prima facie Guilty of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 in respect of the charge specified at para 1.1 above only and the said view had been accepted by the Board. Accordingly, the conduct of the Respondent was examined in respect of the charge specified at para 1.1 above only i.e., Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

**BRIEF OF PROCEEDINGS HELD:**

2.

S.No.	Date of Hearing(s)	Status of hearing(s)
1	28 <sup>th</sup> March, 2023	Adjourned at the request of the Respondent
2	22 <sup>nd</sup> May, 2023	Adjourned at the request of the Respondent
3	31 <sup>st</sup> August 2023	Concluded on the basis of the documents and submissions on record.

**BRIEF SUBMISSIONS OF THE PARTIES TO THE CASE:**

**(a) Complainant:**

3. The Complainant, inter-alia, made the following submissions before the Board:
- 3.1 The Respondent has not submitted any conclusive proof even now.
- 3.2 The letter dated 20<sup>th</sup> April 2017 seeking no objection from the Complainant being the retiring auditor, is not sent by Registered Post or Hand delivery or Speed Post so it cannot be taken as proper mode of service of the letter.
- 3.3 The trust has paid Rs. 39,250/- as tax by withholding the total fees payable to him at Rs. 25,680/-. The Respondent is absolutely wrong, false and malafide in stating the tax payable by the trust is due to non-filing of Return by the Complainant. In fact, the tax payable has arisen because of negligence on the part of the Respondent to file the correct Return of Income under Section 148 of the I.T. Act on 27<sup>th</sup> August 2018 without considering the

provisions of Income Tax Act 1961. Moreover, non-filing of appeal is another negligence on his part. The Assessment Order should have been challenged by him. If the Appeal was filed, the trust would have saved the tax and penalty too.

**(b) Respondent:**

4. The Respondent in his defence, inter-alia, submitted as under:
  - 4.1 The Audit fee bill of Rs. 17,650/- raised by the Complainant has already been paid vide cheque number 02626 of Rs.17,650/- on 17.12.2016 as per the payment voucher of the Trust. The fees claimed by the Complainant is for Income-Tax Returns filed of the Trust for AY 2011-12 TO 2013-14 for which he has claimed the fees of Rs.17,250/- vide his letter dated 17.11.2018 for which he has not used his letter head and stamp/seal as a chartered Accountant for signing it. Also, the fees which he has claimed for filing the Income-Tax Return which Income-Tax Department has not been accepted as the Income-tax Returns for the said assessment years -2011-12,2012-13,2013-14. The Income-tax Department has rejected the said returns stating it as time barred and denied accepting it due to lapse of time provided under the Income-tax law.
  - 4.2 Income-Tax Department has called the Income-tax Return for the said Assessment year 2011-12 by issuing the Notice under Section 148 dated 24<sup>th</sup> March 2018. The Income-Tax Department has assessed the Income-tax Return by adding income on ad-hoc basis and levied Income-tax of Rs.39,250/- and Penalty of Rs.39,250/- under section 271(1) C) of the Income-tax Act. The Trust has paid the demand of Rs.39,250/- on 30<sup>th</sup> January 2019 and still the penalty is payable. Since the Complainant has not filed the Income-tax Return in a proper manner as a professional Chartered Accountant and claiming the bill for filing it, one cannot understand how his fee for said work is payable? Also, it is a financial loss to the Trust for payment of Income-tax of Rs39,250/- on account of not filing it and penalty of Rs.39,250/- which is payable on it.
  - 4.3 The Complainant has neither provided the said fees in the books of accounts for the AY 2011-12 2012-13 and 2013-14 nor raised the bill till 28.02.2017, which seems to be illogical. He has also claimed the Fees for filing the TDS Return of Rs 2,530/- for which he

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has not mentioned the year for which it is filed. From the Income-Tax record it appears that the TDS Return for the said Trust was not uploaded by him.

- 4.4 The Complainant was called personally by the Trustees in their meeting where he appeared, and the Trustees showed from the site of Income-Tax Department that he has not filed the Income-tax Returns for the above said years and also the TDS Return for which he is claiming the professional fee.
- 4.5 As far as Fees for filing Income-tax Return for 2016-17 of Rs.5,900/-, the said fee is already paid to him by cheque on 17<sup>th</sup> December 2016 by the Trust. The unpaid fees are not related to his Audit work for which Professional conduct gets affected. The fees are related to income-tax filing return and TDS Return which he has not filed as it appears from the record of the Income Tax site and the records available with the Trust.
- 4.6 The Respondent wrote a letter on 20<sup>th</sup> April 2017 to the Complainant for obtaining his NOC and posted it to him, but he has not replied any objection to it. The Complainant in his Audit Report prior to Financial Year 2016-17 has not given his e-mail address in the Audit Report, otherwise the Respondent would have emailed him asking his objection for his acceptance of Audit.
- 4.7 The Complainant has written a letter on 17<sup>th</sup> November 2018 without using the letter head and putting the seal and designation for his signature. The Respondent replied him on 21st November 2018 stating that the fees claimed by him for filing the Income-tax Return is for AY 2011-12,2012-13,2013-14 for which there is no record found on income-tax site and also, he should have claimed it at that time instead of claiming it in 2018 i.e. after four years. Further, the Complainant has not rendered the professional services of filing Income-tax Returns in time and by which the Trust have incurred the losses by facing Scrutiny of the Income-tax return for non-filing it for AY 2011-12, 2012-13,2013-14 and said Trust has made payment of Income-tax and penalty levied which is payable.

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**OBSERVATIONS OF THE BOARD:**

5.1 As regards the charge alleged that the Respondent did not communicate in writing with the previous auditor i.e., the Complainant before accepting statutory audit of the Trust the Board took into view the requirements of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 which provides as under: -

*"A Chartered Accountant in practice shall be deemed to be guilty of professional misconduct, if he-*

*accepts a position as auditor previously held by another Chartered Accountant or a certified auditor who has been issued certificate under the Restricted Certificate Rules 1932 without first communicating with him in writing."*

The Board observed that there are two essential requirements under Item (8) of Part I of the First Schedule to The Chartered Accountant Act, 1949 which are as follows:

- i. The communication should be prior to the acceptance of the appointment as auditor.
- ii. The communication should be in writing.

The following Paras of the Code of Ethics- 2009 also merit consideration in this regard:

*"The Council has taken the view that a mere posting of a letter under certificate of posting is not sufficient to establish communication with the retiring auditor unless there is some evidence to show that the letter has in fact reached the person communicated with. A Chartered Accountant who relies solely upon a letter posted under certificate of posting therefore does so at his own risk.*

*Members should therefore communicate with a retiring auditor in such a manner as to retain in their hands positive evidence of the delivery of the communication to the addressee. In the opinion of the Council, communication by a letter sent "Registered Acknowledgement due" or by hand against a written acknowledgement would in the normal course provide such evidence."* (emphasis added)

5.2 In the extant case, the Board noted that the Complainant was the Statutory auditor of the Trust for the FY 2015-16 as evident from the bill raised by the Complainant to the Trust regarding fees due, a copy of which was brought on record by the Respondent himself.

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5.3 The Board further noted that the Trust vide letter dated 27<sup>th</sup> April 2017 appointed the Respondent as the Statutory Auditor for F.Y. 2016-17. The Respondent sent a letter dated 20<sup>th</sup> April 2017 taking no objection from the Complainant before accepting the position as the Statutory Auditor of the Trust. However, he could not bring on record any acknowledgement or positive evidence to prove that such communication was delivered to the Complainant being the previous auditor of the Company.

5.4 Thus, in view of the documentary evidence on record, the Board viewed that the Respondent has failed to communicate in writing with the Complainant being the previous auditor before acceptance of the Statutory Audit of Chogle Families Shri Vithal Maruti Panchayatan Devasthan Trust for F.Y. 2016-17 in the manner as stated in the provisions of Item (8) of Part I of First Schedule of the Chartered Accountants Act, 1949 and is thus, held guilty in respect of the charge alleged.

**CONCLUSION:**

6. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

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Sd/-  
CA. Rajendra Kumar P  
(Presiding Officer)

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

DATE: 28-12-2023

सही प्रतिलिपि होने के लिए प्रमाणित  
Certified to be true copy  
मेनु गुप्ता / Meno Gupta  
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer  
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ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032