



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

[PR/G/138/2021-DD/181/2021-BOD/652/2022]

**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:**

**Deputy Director,**  
Directorate General of GST Intelligence (DGGI),  
Mumbai Zonal Unit,  
3rd Floor, N.T.C House, N.M. Road,  
Ballard Estate, Mumbai – 400001.

.....Complainant

-Vs-

**CA. Daulat Samirmal Mehta (M. No. 034930)**

M/s Gupta Banwari & Associates  
702, Acme Plaza, Andheri Kurla Road  
Opp. Chakala Metro Station, Andheri (E)  
Mumbai – 400001.

.....Respondent

[PR/G/138/2021-DD/181/2021-BOD/652/2022]

**MEMBERS PRESENT:**

**CA. Rajendra Kumar P, Presiding Officer (in person)**  
**Ms. Dolly Chakrabarty (IAAS, retd.), 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. Daulat Samirmal Mehta (M. No. 034930)** 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 Act.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Daulat Samirmal Mehta (M. No. 034930)** 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 permitted to be exercised by his Counsel Shri Shrey S. Lodha through video conferencing as a special case as he represented the Respondent during the course of hearing also and the Respondent informed vide email dated 16<sup>th</sup> January 2024 that he is not keeping well. He confirmed the receipt of the Findings of the Board by CA. Daulat Samirmal Mehta and raised certain technical objections with respect to the case which were not entertained by the Board as no fresh grounds can be adduced at this stage.
3. Thus, upon consideration of the facts of the case, the consequent misconduct of **CA. Daulat Samirmal Mehta (M. No. 034930)** and keeping in view his representation before it, the Board decided to remove the name of **CA. Daulat Samirmal Mehta (M. No. 034930)** from the Register of Members for a period of **03 (Three) months** and also imposed a Fine of **Rs.1,00,000/- (Rs. One Lakh only)** upon him.

Sd/-

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

Sd/-

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

Sd/-

**CA. Priti Savla**  
(Member)

Deputy Director (DGGI), Mumbai Zonal Unit -Vs- CA. Daulat Samirmal Mehta (M. No. 034930)

सर्वे कोषाधिकारिता अर्थात् सत्यता  
Certified to be true copy

*Arun Kumar*

अरुण कुमार / Arun Kumar  
वरिष्ठ कार्यवाही अधिकारी / Sr. Executive Officer

सहायक निदेशक, गुड टैक्स इंटेलिजेंस, मुंबई

अधीक्षक निदेशक, गुड टैक्स इंटेलिजेंस, मुंबई

The Institute of Chartered Accountants of India

अधीक्षक निदेशक, गुड टैक्स इंटेलिजेंस, मुंबई-110032

ICAI Bhawan, Indraprastha, Connaught Place, 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/G/138/2021-DD/181/2021-BOD/652/2022]**

**CORAM (Present in Person):**

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

**In the matter of:**

**Deputy Director,  
Directorate General of GST Intelligence (DGGI),  
Mumbai Zonal Unit,  
3rd Floor, N.T.C House, N.M. Road,  
Ballard Estate,  
Mumbai – 400001.**

**.....Complainant**

**Versus**

**CA. Daulat Samirmal Mehta (M. No. 034930)  
M/s Gupta Banwari & Associates,  
702, Acme Plaza, Andheri Kurla Road  
Near Chakala, Andheri (E),  
Mumbai – 400001.**

**.....Respondent**

**DATE OF FINAL HEARING : 31<sup>st</sup> August, 2023**

**PARTIES PRESENT (in person) :**

**Authorised representative**

**of the Complainant Department**

**: 1. Shri Chandra Shekhar Tiwari, Sr. Intelligence Officer  
2. Shri Nishant Kumar Gupta, Intelligence Officer**

**Counsel for the Respondent**

**: Shri Shrey S. Lodha, Advocate**

**FINDINGS:**

**CHARGE ALLEGED:**

1. It is alleged that the Respondent being Director/promoter/key person/operator in his six companies namely (M/s Twinstars Industries Limited, M/s Orignet Technologies Ltd, M/s

*Bigg*

Boostmetric Solutions Ltd., M/s Stuti Comtrade Pvt Ltd, M/s Vintage Comtrade Pvt Ltd and M/s Kala exports), has fraudulently:-

- (i) issued bogus invoices
- (ii) availed & utilized ineligible Input Tax Credit (ITC) amounting of Rs. 122.59 Crores on the strength of bogus invoices, without actual receipt of goods or services as mentioned in the respective invoices in contravention of section 16 and section 155 of the CGST Act and
- (iii) passed on ineligible ITC to various Companies, without actual receipt of goods or services as mentioned in the respective invoices thereby leading to wrongful passing on of ITC amounting of Rs. 191.66 Crores to the recipient companies in contravention of sections 31, 37, 38, 39, 41 and 42 of the CGST Act, 2017.

**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	Part-heard and adjourned with the direction to the Complainant Department to provide a copy of the Show Cause Notice issued to the Respondent by it in the matter under question with a copy to the Respondent. The Complainant Department provided a copy of the same.
3.	31 <sup>st</sup> August, 2023	Heard and concluded.

**BRIEF SUBMISSIONS OF THE RESPONDENT:**

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

3.1 A peripheral survey of the complaint has failed to whisper as to how the Respondent has leveraged his qualification as a Chartered Accountant in perpetuating the alleged infractions of the GST laws.

3.2 It is amply clear from a threadbare perusal of the Chartered Accountants Act, 1959 wherein the expression "professional or other misconduct" has been defined, the Respondent's alleged contravention of GST laws, without conceding to anything, even if accepted and taken on face value, then too, the same does not attract the rigours of "other misconduct". Further, to qualify an act of a member of ICAI as "Other Misconduct", it needs to be taken into consideration that it is a subjective criteria. However, such subjective criterion necessitates objective assessment of facts and circumstances to pin punitive repercussions on the Respondent by this Hon'ble Board.



- 3.3 Neither in his business dealings nor while interacting with any Governmental body including the Complainant, the Respondent has employed his professional qualification to induce or deceive them. The Respondent has conducted all his businesses and fulfilled all the statutory obligations including his duty to pay tax as a businessman and not otherwise. Therefore, it would gravely prejudice the Respondent who after burning the midnight oil to position himself in the meritorious category for being inducted as a member of ICAI, be disrobed amongst the CA fraternity basis a pre-mature, baseless, and unwarranted complaint – in the instant case, as instituted by the Complainant.
- 3.4 This Hon'ble Board may therefore dismiss the complaint against the Respondent with a word of caution to the Complainant while pursuing such vexatious complaints which have the potential to sully and malign the reputation enjoyed by the members of ICAI.

**OBSERVATIONS OF THE BOARD:**

At the outset, the Board observed that the Respondent raised certain technical objections with regard to the applicability of "Other Misconduct" in this case and decided to deal with it before arriving at its Findings.

- 4.1 The Board noted that as per Item (2) of Part-IV of the First Schedule to the Chartered Accountants Act, 1949:-

*"Other misconduct in relation to members of the Institute generally:-*

*A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he-*

*(1) Is held guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term not exceeding six months;*

*(2) In the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work."*

Further, a "Member" as per Clause 2(g) of the Chartered Accountants(Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 is defined as follows:-

*"Member' means an associate or fellow member of the Institute and includes a person who was a member of the Institute on the date of the alleged misconduct, although he has ceased to be a member of the Institute at the time of filing the complaint, initiation of the inquiry or thereafter."*

*Pass*

Thus, on a conjoint reading of the aforesaid two definitions, the Board held that it was well within its powers to examine the conduct of the Respondent in respect of the charges alleged in the instant case.

- 4.2 As regard the charge alleged, the Board noted that during the course of hearing, the Complainant Department brought on record copy of the Show Cause cum Demand Notice No. F.No.DGGI/MZU/I&IS'D'/12(4)/12/2021 dated 28<sup>th</sup> March 2023 wherein , inter-alia, the role of the Respondent was highlighted as under:-
- i. Respondent was the Director of Twinstar & Originet, since its inception and having major stake in the company. He was also the authorised signatory in other companies. He held Power of attorney in M/s. Kala Exports. The Directors in other companies were actually his employees. And thus, they were directors for namesake but they took directions from Respondent. Thus, he controlled all the Daulat Mehta group of companies directly or indirectly. Moreover, all the companies were operating from the same premises i.e., 702, Acme Plaza. The records of 'Daulat Mehta group of companies' were all available at this premise.
  - ii. Respondent was the founder director of Twinstar. He further sought other persons in other companies and operated these companies for conducting fraudulent activity. All the strategic key decisions were taken by him. As per statutory provisions also, he was entrusted with substantial powers of management of the affairs of the Twinstar & Originet under the Companies Act, 2013. He was therefore in charge of and responsible to the companies for the conduct of its business.
  - iii. During investigation, statements of Respondent as well as the other persons were recorded which indicates that day to day activity of sale and purchase transactions were handled by him. The statements also indicated that he was the person who controlled 'Daulat Mehta group of companies' and aided Shri Nitesh Gangaramani in circular trading without actual supply of goods/ services and received commission for the same. Further Respondent being a Chartered Accountant is aware of the legal knowledge and repercussions of the activities carried out by him are not proper & legally correct. Even then he has indulged in issue of invoices without actual outward supply of goods and receipt of invoices without actual inward supply of goods. Hence for the above acts of omissions and commissions, Respondent was arrested under section 132 of CGST Act, 2017. He was released on bail by Mumbai High Court.
  - iv. Subsequently, after the thorough investigation, Show Cause Notice was issued by the DGGI, Mumbai Zonal Unit, against the Respondent 'to appear and defend as to why the penalty under the provisions of Section 122 (3) (b) & (c) and 125 of the CGST Act, 2017/ the SGST Act, 2017 should not be imposed against him, within 30 days before Additional/Joint Commissioner of Central Tax, Thane Commissionerate.



- 4.3 The Board noted that Section 122 of CGST Act, 2017, dealing with 'penalty for certain offences' relevant sub-section provides as under:-

*"(3) Any person who—*

*(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;*

*(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made there under;*

*shall be liable to a penalty which may extend to twenty-five thousand rupees."*

Further, Section 125 of CGST Act, 2017, dealing with 'General Penalty' relevant sub-section provides as under:-

*"Any person, who contravenes any of the provisions of this Act or any rules made there under for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees."*

The Board also noted that in the Show Cause cum Demand Notice a penalty of Rs.198,75,52,040/- (Rs One Hundred Ninety Eight Crore Seventy Five Lakhs Fifty Two Thousand and Forty) was imposed under Section 122 (3) (b) & (c) and 125 of the CGST Act, 2017/ the SGST Act, 2017 on the entities which were controlled by the Respondent.

- 4.4 The Board also noted that during the course of investigation by the Complainant Department, the Statement of the Respondent was recorded on 7 different occasions and the statement of Shri Nitesh Gangaramani, Director before June, 2018 was also recorded on 20.11.2018. On perusal of the above mentioned statements recorded by the Complainant Department under Section 70 of the CGST Act, 2017, the Board noted that the Respondent being Director of 2 Companies (M/s. TwinStar & M/s. Originet) and controlling authority in other 4 Companies (M/s. Boostmetric Solutions, M/s Stuti Comtrade, M/s Vintage Comtrade and M/s Kala Exports) was indulged with the Key person of M/s Al Fara's group of companies in issuing fake invoice without actual supply of goods for commission and also thereby resulting in availment / passing on of fraudulent ITC (Input Tax Credit) of Rs.122.59 Crores and Rs.191.66 Crores respectively on strength of such fake GST invoices. Further, the Respondent's admission is also corroborated apart from the Statement of Shri Nitesh Gangaramani (which has already been quoted above) with the statements of other co-accused persons viz. his accountant

*Bis*

(Shri Shiv Kumar Asopa), the Vice president and Board Member of Alfará's Group Companies (Shri Murari Rajgopalan) involved in the matter.

- 4.5 The Board also noted that the Counsel for the Respondent during the course of hearing informed that the Respondent has retracted his statements but the same is not available with him at the moment and despite giving opportunity, the same was not brought on record.
- 4.6 The Board also noted that the above Show Cause cum Demand Notice was issued by the Complainant Department on 28<sup>th</sup> March, 2023 which states, that if the Respondent does not take any action or appear before adjudicating authority for hearing within 30 days from receipt of notice, then it will be presumed that they have nothing to say and the case will be decided on merits based on the evidences available on records. The Board noted that the Counsel for the Respondent during the course of hearing informed that the Respondent preferred an appeal against the above Show Cause Notice but despite giving opportunity no proof of the same was brought on record. Thus, the Board observed that the Respondent did not bring on record any documentary evidence to effectively defend his case before it.
- 4.7 Thus, in view of documents and submissions on record, the Board held that the conduct of the Respondent in the circumstances as entailed above is clearly unbecoming of a Chartered Accountant and has brought disrepute to the profession. Hence, the Board held the Respondent guilty in respect of the charge alleged.

**CONCLUSION:**

5. 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.

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

बिष्वा नाथ तिवारी / Bishwa Nath Tiwari  
कार्यकारी अधिकारी / Executive Officer  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
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