

**BOARD OF DISCIPLINE**  
(Constituted under Section 21A of the Chartered Accountants Act 1949)

**Findings under Rule 14 (9) read with Rule 15 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007**

**CORAM: (PRESENT IN PERSON)**

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

**IN THE MATTER OF:**

CA. Rajesh Nakra (M. No. 084325) 36, Shakti Vihar, Ludhiana- 141001 in Re:

Date of Final hearing : 4<sup>th</sup> April 2024  
Place of Final hearing : Amritsar

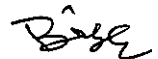
**PARTY PRESENT (IN PERSON):**

Respondent : CA. Rajesh Nakra

**FINDINGS:**

**BACKGROUND OF CASE**

- 1.1 The Informant has alleged that Respondent was involved in a bribery case and submitted a copy of the Final Report dated 28<sup>th</sup> June 2007 to support his claim. In the said Final Report, it is stated that Shri A.L. Chawla, Divisional Manager, National Insurance Company, Kaser Ganj Chowk, Ludhiana (hereinafter referred to as 'the Insurance Company') and Shri Rajesh Nakra, the Respondent who was the then Surveyor of the said Insurance Company had demanded Rs. 1,50,000/- for settling fire insurance claim of Shri Naresh Dhall, Proprietor, M/s. Shally Collections, Kirpal Nagar, Ludhiana. The said demand was negotiated by the Respondent on behalf of Shri A.L. Chawla. Shri Naresh Dhall approached the CBI and submitted a written complaint dated 26<sup>th</sup> March 2007. Thereafter, the CBI lodged an FIR dated 26<sup>th</sup> March 2007 and investigated the said offence. The investigating officer, thereafter, prepared a raid party and caught Shri A.L. Chawla, the Respondent and Shri Rajinder Kochhar being involved into the said offence as per law.



- 1.2 As per the version of the Respondent, he was implicated in a false corruption case, and he has already filed an appeal before the Hon'ble Punjab and Haryana High Court and the said case is sub-judice.

### **CHARGES ALLEGED:**

- 2.1 Final Report dated 28<sup>th</sup> June 2007 filed in the Court of Special Judge, CBI, Patiala in FIR No. 06 of 2007 dated 26<sup>th</sup> March 2007 registered under Section 120B, Indian Penal Code, 1860 and Section 7, 13 (2) read with 13 (1) (d) of the Prevention of Corruption Act, 1988, wherein case was registered against the Respondent as Accused No. 2 on the complaint of Sh. Naresh Dhall, Proprietor of M/s. Shally Collections, Kirpal Nagar, Ludhiana.
- 2.2 Shri A.L. Chawla, Divisional Manager, National Insurance Company Limited, Kaser Ganj Chowk, Ludhiana, and the Respondent, being the Surveyor of the Insurance Company, have demanded Rs. 1,50,000/- as bribe for settling Shri Naresh Dhall's fire insurance claim.

### **BRIEF OF PROCEEDINGS HELD:**

3. The details of the hearings fixed and held in the said matter, are given as under:

<b>Date of Hearing(s)</b>	<b>Status of hearing(s)</b>
23 <sup>rd</sup> August 2023	Adjourned at the request of the Respondent.
4 <sup>th</sup> April 2024	The matter was heard and concluded.

### **SUBMISSIONS OF THE RESPONDENT:**

- 4.1 The Respondent submits that a letter dated 7<sup>th</sup> June 2018 under ref. No. PI.1/6/2018 PI (pt.) was received by the Disciplinary Directorate from Shri Rakesh Kumar, Under Secretary to the Government of India, Ministry of Corporate Affairs, New Delhi, saying that he has been directed to forward the copy of CBI letter No. DPHCHG: 2018 / 2622 / Misc.cr. /Shell Companies/ACB/Chg. The letter from CBI contained allegations against some members of the Institute and the Respondent. This letter was to convey the information related to Shell Companies to the Ministry of Corporate Affairs. This very letter very clearly mentions that the information submitted is in connection with Shell Companies as per discussions of Task Force appointed for Shell Companies. Following this letter and knowing fully well that the purpose of this information was related to the Shell Companies, the Disciplinary Directorate decided to proceed against the Respondent.
- 4.2 That the letter from CBI dated 18<sup>th</sup> April 2018, clearly mentions that as per discussions of task force on Shell companies set up by PMO, the information was sent to Ministry of Corporate Affairs. No mention has been made in the Prima Facie Opinion that Respondent's case is related to Shell Companies. The purpose of this information sent by CBI to the Ministry of Corporate Affairs was to bring to their knowledge the accused about being involved in Shell Company business. The same

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information has been used by the Disciplinary Directorate implicating Respondent while the basis of this letter cannot be made for giving information about Respondent. The Disciplinary Directorate correspondence with CBI very much confirms that the informant had no further information to share and they were not interested in filing any complaint against Respondent.

- 4.3 That from the very beginning it appears as if it is being tried to implicate Respondent based on involvement in Shell Companies and subsequently on finding the facts, still pressed with forming of Prima facie opinion on other grounds only to cover up initial charges which were not available. Due to this very reason to justify proceedings, the Disciplinary Directorate followed up with CBI Chandigarh, pleading them practically to file a complaint and give more information which could enable the Disciplinary Directorate to crucify the members of ICAI including Respondent. It is important to mention here that the period given to CBI to file the reply was 21 days from the receipt of first letter dated 17.07.2018.
- 4.4 That the Disciplinary Directorate did not receive any complaint from them, despite repeated reminders and much beyond the time provided for filing information or complaint as provided under the Rules. Even after this delay, the Disciplinary Directorate decided to proceed with the case based on information only. Respondent filed his reply to this, not knowing that there has been a delay beyond the time permitted under the Rules. After Respondent's reply dated 5<sup>th</sup> March 2020, it was decided by the Disciplinary Directorate that some additional information and documents are still required to be called from CBI, ACB, Chandigarh requisite to form Prima Facie Opinion fairly since only because initial information was not sufficient to form just opinion. The Disciplinary Directorate vide reminder letter no. PPR/G/35/2018-DD/46/INF/19/Ad dated 21<sup>st</sup> May 2020 requested CBI Chandigarh to furnish additional information/documents and asked for the same vide reminder letter no. PPR/G/35/2018-DD/46/INF/19/Ad dated 18<sup>th</sup> February 2021. However, till the date of arriving at Prima Facie opinion, the CBI had not submitted the above information/documents asked for from them and still the Disciplinary Directorate decided to proceed further. Since the Disciplinary Directorate wrote about 5 to 6 letters for getting complete information which the Disciplinary Directorate could never get, then the matter cannot be proceeded accordingly. The fact of the matter is that the Disciplinary Directorate proceeded only based on information which was initially available and without receipt of any additional information.
- 4.5 The Respondent further submits that the First information, was received initially on 7<sup>th</sup> June 2018 by the Disciplinary Directorate vide letter received from Under Secretary, Ministry of Corporate Affairs passing on information received from CBI vide their letter dated 18/04/2018. As per this letter the alleged misconduct happened in the year 2007 which is clearly mentioned that the date of the charge sheet filed is 28<sup>th</sup> July 2007. This very letter has been forwarded to the Disciplinary Directorate by the Under Secretary to the Government of India, on 7<sup>th</sup> June 2018. The Respondent drew the attention to Rule 12 of the Chartered Accountants (Procedure for Investigations of Professionals and Other Misconduct and Conduct of Cases) Rules 2007.



- 4.6 The Respondent submits that the alleged misconduct happened in the year 2007 and the Disciplinary Directorate received the information in 2018, that is after 11 years, while the time limit mentioned in the aforesaid Rule 12 is 7 years. Respondent humbly submits that though the authority may entertain the information after the delay as per Rules but due to time lag it is difficult to secure proper evidence, which happened in his case. More so, the Disciplinary Directorate could not obtain additional information despite repeated reminders and decided to proceed further only on the basis of charge sheet thus taking only those facts into consideration which are already pending with the Hon'ble High Court of Punjab and Haryana. The Disciplinary Directorate did not have any information other than the information provided in the charge sheet.
- 4.7 Respondent furthermore submits that he has already filed an appeal against the facts of said charge sheet and some have already been accepted by the Hon'ble High Court of Punjab and Haryana. The Hon'ble High Court has granted stay on further proceedings and stayed the sentence. The appeal has been accepted on merits and the Disciplinary Directorate has decided to proceed further taking into consideration only those documents and submissions which are already subject to scrutiny and final decision of the Hon'ble High Court of Punjab and Haryana. Therefore, any adverse decision taken by the Disciplinary Directorate at this stage against the Respondent can harm him socially and professionally.
- 4.8 The assertion that the disciplinary proceedings are quasi-judicial in nature and can continue with criminal proceedings simultaneously, Respondent submits that it is fair only when there is additional evidence or information which is not before the Board and where the misconduct can be proved by preponderance of probabilities which are distinct from criminal proceedings. But in the present case, there is no other probability which can prove misconduct except the facts of which are pending with the Hon'ble High Court to decide.
- 4.9 The Respondent submits that the information based on which the Prima Facie Opinion has been made is only by taking into consideration the charge sheet filed by CBI. Except the facts mentioned in the charge sheet, there is no other information, documents on record and so Prima Facie Opinion formed by the Director (Discipline) is based on whatever information is available with him from the charge sheet. The above charge sheet is now sub judice with the Hon'ble Punjab and Haryana High Court, which has already stayed the proceedings and sentence.

**OBSERVATIONS OF THE BOARD:**

5. The Board noted that the Respondent was alleged to be involved in the case in the year 2007 and the reference of the same came to the Institute in the year 2018. Since a considerable time of more than 11 years has already passed from the date of cause of action and also from the date of the receipt of the information by the Institute. Therefore, the Board decided to invoke Rule 12 of the Chartered Accountants (Procedure for Investigations of Professionals and Other Misconduct and Conduct of Cases) Rules 2007 and to close this matter without going into the merits of the case and the Respondent is held 'Not Guilty' of the charges alleged.

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**CONCLUSION:**

6. Thus, in conclusion, in the considered opinion of the Board, the Respondent is '**NOT GUILTY**' of Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with section 22 of the said Act. Accordingly, the Board passed an Order for closure of the case in terms of the provisions of Rule 15 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

**Sd/-**  
**CA. Rajendra Kumar P**  
**Presiding Officer**

**Sd/-**  
**Dolly Chakrabarty, IAAS (Retd.)**  
**Government Nominee**

**Sd/-**  
**CA. Priti Savla**  
**Member**

**Date: 07-05-2024**

सही प्रतिलिपि होने के लिए प्रमाणित  
Certified to be true copy



बिषा नाथ तिवारी / Bishwa Nath Tiwari  
कार्यकारी अधिकारी / Executive Officer  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
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