



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF
INDIA

(Set up by an Act of Parliament)

[PR/89/2021/DD/83/2021/BOD/699/2023]

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. V. Radhakrishna Pillai (M. No. 018300)

Radhakrishnan & Associates, Chartered Accountants

House No- 102, Upasana Nagar, Opposite SIMS (SSM Hospital),

Kollam.....Complainant

Versus

CA. Vijaya Mohan Valiathan (M. No. 028648)

Issac & Suresh, Chartered Accountants,

Chaandini 63, Sree Nagar, Kadappakkada,

Kollam..... Respondent

[PR/89/2021/DD/83/2021/BOD/699/2023]

MEMBERS PRESENT (THROUGH VC):

CA. Rajendra Kumar P, Presiding Officer

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

Date of hearing and passing of Order: 25th September 2024

1. The Board of Discipline vide its findings dated 27th August 2024 was of the view that CA. Vijaya Mohan Valiathan (M. No. 028648) is **Guilty** of Professional Misconduct falling within the meaning of Item (8) and Item (9) 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. Vijaya Mohan Valiathan (M. No. 028648) and communication dated 18th September 2024 was addressed to him thereby granting him an opportunity of being heard on 25th September 2024, which was exercised by him by being present through Video Conferencing. He confirmed receipt of the findings of the Board and submitted his oral as well as written submissions.
3. Thus, upon consideration of the facts of the case, oral as well as written submissions, the consequent misconduct of CA. Vijaya Mohan Valiathan (M. No. 028648), the Board decided to impose a Fine of Rs. 10,000/- (Rs. Ten Thousand only) upon CA. Vijaya Mohan Valiathan (M. No. 028648).

Sd/-

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

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

बिश्वा नाथ तिवारी / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / 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

Sd/-

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

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**

CORAM: (PRESENT IN PERSON)

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

IN THE MATTER OF:

CA V. Radhakrishna Pillai (M. No.- 018300)

Radhakrishnan & Associates, Chartered Accountants
House No- 102, Upasana Nagar, Opposite SIMS (SSM Hospital)

Kollam.....Complainant

Versus

CA. Vijaya Mohan Valiathan (M. No.- 028648)

Issac & Suresh, Chartered Accountants,
Chaandini 63, Sree Nagar, Kadappakkada,

Kollam.....Respondent

Date of Final hearing : 12th June 2024
Place of Final hearing : ICAI Bhawan, Chennai

PARTY (PRESENT IN PERSON):

Counsel for Respondent : CA. S. Anandh

FINDINGS:

BACKGROUND OF CASE

1. The Complainant was the auditor of M/s Uniserve Distributors (P) Ltd (hereinafter referred to as **subject company**) reportedly for 5 years from 2015-16 to 2019-20. However, it is alleged that the Respondent accepted the appointment of subject Company for the financial year 2019-20 in contravention to section 140 (1) of the Companies Act, 2013 requiring Special Resolution for removal of an auditor before the expiry of his term. The Complainant has further alleged that the Respondent has accepted the audit of the said Company without first communicating with him.

CHARGES ALLEGED:

2. Following are the allegations levelled against the Respondent by the Complainant:

- 2.1. The Complainant has alleged that the Respondent has accepted the audit of the subject Company without first communicating with him.
- 2.2. The Complainant has also alleged that the Respondent has accepted the appointment of subject company for the financial Year 2019-20 in contravention to Section 140 (1) of the Companies Act, 2013, requiring Special Resolution for removal of an auditor before the expiry of his term.

BRIEF OF PROCEEDINGS HELD:

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

Date of Hearing(s)	Status of Hearing(s)
15 th June 2023	Adjourned at the request of the Respondent.
04 th October 2023	Adjourned at the request of the Complainant.
26 th October 2023	Adjourned due to non-appearance of the parties.
23 rd January 2024	Part heard & adjourned.
12 th June 2024	Heard and concluded.

OBSERVATIONS OF THE BOARD:

4. At the outset, the Board noted that the Counsel for Respondent was present in person, and none appeared on behalf of the Complainant. However, the Complainant vide his email dated 5th June 2024 requested to decide the matter based on his written submissions already made on December 15, 2023, and other documents made available by him.
5. The Board further noted that the first allegation concerns the Respondent's failure to communicate with the previous auditor before accepting the audit engagement with the subject Company. According to Item (8) of Part-I of First Schedule to the Chartered Accountants Act 1949, it is mandatory for a Chartered Accountant to obtain a No Objection Certificate (NOC) from the previous auditor prior to accepting a new audit assignment. The evidence indicates that the Respondent provided his consent to the company on 25th August 2019, and 14th September 2019, but only sought an NOC from the previous auditor on 27th November 2020, more than a year after his appointment. This delay contravenes the required protocol, rendering the communication ineffective and constituting a breach of professional conduct.
6. Additionally, during the hearing, it was confirmed that while the Respondent made several attempts to deliver the letter by hand, these were unsuccessful as the complainant's office was closed. Subsequently, the letter was sent via speed post and received by the Complainant on 19th December 2020. This was noted in the Prima Facie Opinion of the Director (Discipline). However, the audit was completed, and the report signed on 08th December 2020, prior to the receipt of the NOC by the Complainant. This timeline discrepancy further underscores the failure to adhere to proper procedures before the completion of the audit, reinforcing the allegation of misconduct under Item (8).
7. The Board further noted that the second allegation addresses the Respondent's failure to verify the authenticity of the appointment resolution for the Complainant. The Complainant presented a resolution dated 30th September 2015 indicating his appointment for five years, while the Respondent provided a different version suggesting a three-year term with visible signs of tampering. Given the discrepancies between the two resolutions, the Respondent had a professional obligation to verify the original

minutes book from the Company to ascertain the true term of the Complainant's appointment. This due diligence was crucial to ensure document integrity and the propriety of his own appointment. The inconsistency in the resolution periods and the apparent tampering should have prompted a thorough investigation, which the Respondent failed to conduct.

8. As per Section 139 (1) of the Companies Act, 2013, an auditor's appointment is typically for a period of five years. The Respondent's failure to verify the authenticity of the appointment resolution and his reliance on a seemingly tampered document raises substantial concerns about his professional judgment and adherence to ethical standards. This negligence and reliance on falsified information renders the Respondent '**Guilty**' of Professional Misconduct under Item (9) of Part-I of First Schedule to the Chartered Accountant Act 1949.
9. In conclusion, the Respondent has clearly violated professional standards and ethical requirements as specified under the Chartered Accountant Act 1949. His actions demonstrate a failure to adhere to the necessary protocols, thereby undermining the integrity and trust expected in the auditing profession. The Respondent is therefore found '**Guilty**' of Professional Misconduct under Items (8) and (9) of Part-I of the First Schedule to the Act.

CONCLUSION:

10. Thus, in conclusion in the considered opinion of the Board, the Respondent is held '**Guilty**' of Professional Misconduct falling within the meaning of item (8) and item (9) of Part-I of the First Schedule to the Chartered Accountants Act, 1949.

Sd/-
CA. Rajendra Kumar P
Presiding Officer

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

Sd/-
CA. Priti Savla
Member

Date: 27-08-2024

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Certified to be true copy

Nisha Sharma

निशा शर्मा / Nisha Sharma
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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