



# भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[DISCIPLINARY COMMITTEE [BENCH-IV (2024-2025)]]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

**ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.**

**[PR/614/22/DD/504/2022/DC/1843/2023]**

**In the matter of:**

**CA. Kusum Goyal (M. No. 089682)**

Partner, M/s. K C Goyal & Associates,

Chartered Accountants,

A-3/9, IInd Floor,

Main Road, Paschim Vihar

New Delhi – 110 067

.....Complainant

**Versus**

**CA. Naveen Kumar Khairari (M.No. 432205),**

M/s N K A K & Co.,

C-91,2nd Floor, Ram Dutt Enclave,

Uttam Nagar East

New Delhi – 110 059

.....Respondent

**MEMBERS PRESENT:**

1. CA. Ranjeet Kumar Agarwal, Presiding Officer (In person)
2. Ms. Dakshita Das, I.R.A.S. (Retd.), Government Nominee (Through VC)
3. CA. Mangesh P Kinare, Member (In person)
4. CA. Abhay Chhajed, Member (In person)

**DATE OF HEARING : 11<sup>th</sup> DECEMBER 2024**

**DATE OF ORDER : 20<sup>th</sup> January 2025**

1. That vide Findings dated 16.10.2024 under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Disciplinary Committee was inter-alia of the opinion that CA. Naveen Kumar Khairari (M.No. 432205) (hereinafter referred to as the Respondent") is **GUILTY** of Professional Misconduct falling within the meaning of Item (8) of Part-I of First Schedule and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

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2. That pursuant to the said Findings, an action under Section 21B(3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication was addressed to him thereby granting an opportunity of being heard in person/ through video conferencing and to make representation before the Committee on 11<sup>th</sup> December 2024.

3. The Committee noted that on the date of the hearing on 11<sup>th</sup> December 2024, the Respondent was present through video conferencing. During the hearing, the Respondent apologized for his mistake and stated that he has cleared all the dues of the Complainant. The Committee also noted the written representation of the Respondent dated 01<sup>st</sup> November 2024 on the Findings of the Committee, which, inter alia, are given as under:-

- (i) The non-compliance occurred due to time limitation and workload as it was the last month of Tax Audits for F.Y 2020-21.
- (ii) There is no dispute between the Respondent and the Complainant.
- (iii) That all dues of the previous auditor were cleared by the Company after filing of the instant Complaint.
- (iv) He admitted that the Respondent's Firm has not done prior communication with the previous Auditor before completing the 'Tax Audit'.
- (v) The Respondent prayed for leniency in the matter.

4. The Committee considered the reasoning as contained in the Findings holding the Respondent 'Guilty' of Professional Misconduct vis-à-vis written and verbal representation of the Respondent. The Committee noted that the issues/ submissions made by the Respondent as aforesaid have been dealt with by it at the time of hearing under Rule 18.

5. Thus, keeping in view the facts and circumstances of the case, material on record including written and verbal representation of the Respondent on the Findings, the Committee was of the view that as per the Code of Ethics, the objective of communicating with the previous auditor is that the member may have an opportunity to know the reasons for the change in order to be able to safeguard his own interest, the legitimate interest of the public, and the independence of the existing auditor. Therefore, the plea of Respondent that he was preoccupied in other assignment(s) cannot be accepted as the basis for non-compliance of this requirement. The Committee noted that the Respondent had accepted his mistake that he did not communicate with the previous auditor (Complainant's firm) prior to acceptance of audit assignment.

6. As regards the outstanding audit fee of the previous auditor for the financial year ended 31.03.2020 being unpaid, the Committee observed that despite knowing that audit fees were payable to the previous auditor, the Respondent had accepted and completed the tax audit of



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the client. The Committee noted that undisputed audit fee was paid to Complainant in the month of April 2023 which was after the date of acceptance of audit assignment by the Respondent. Hence, the Respondent had violated the requirement of Chapter VII of the Council General Guidelines, 2008. Hence, the Professional Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 16<sup>th</sup> October 2024 which is to be read in consonance with the instant Order being passed in the case.

7. Accordingly, the Committee was of the view that the ends of justice would be met if punishment is given to him in commensurate with his Professional Misconduct.

8. Thus, the Committee ordered that the Respondent i.e., CA. Naveen Kumar Khairari (M.No. 432205), be REPRIMANDED and also imposed a fine of Rs. 10,000/- (Rupees Ten thousand only ) upon him, which shall be paid within a period of 60 (sixty) days from the date of receipt of the Order.

Sd/-

(CA. RANJEET KUMAR AGARWAL)  
PRESIDING OFFICER

Sd/-

(MS. DAKSHITA DAS, I.R.A.S.{RETD.})  
GOVERNMENT NOMINEE

Sd/-

(CA. MANGESH P KINARE)  
MEMBER

Sd/-

(CA. ABHAY CHHAJED)  
MEMBER

सही प्रतिलिपि होने के लिए प्रमाणित /  
Certified to be true copy

*Nisha Sharma*  
निशा शर्मा / Nisha Sharma  
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, शाहदरा, दिल्ली-110032  
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – IV (2024-2025)]**

**[Constituted under Section 21B of the Chartered Accountants Act, 1949]**

**Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.**

**File No.:- [PR/614/22-DD/504/2022/DC/1843/2023]**

**In the matter of:**

**CA. Kusum Goyal (M. No. 089682)  
Partner, M/s. K C Goyal & Associates,  
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A-3/9, IInd Floor,  
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C-91, 2<sup>nd</sup> Floor, Ram Dutt Enclave,  
Uttam Nagar East  
New Delhi – 110 059**

**.....Respondent**

**MEMBERS PRESENT:**

**CA. Ranjeet Kumar Agarwal, Presiding Officer (In person)  
Shri Jiweesh Nandan, IAS (Retd.), Government Nominee (in person)  
Ms. Dakshita Das, IRAS (Retd.), Government Nominee (in person)  
CA. Mangesh P Kinare, Member (in person)  
CA. Abhay Chhajed, Member (through VC)**

**DATE OF FINAL HEARING : 28<sup>th</sup> May 2024**

**PARTIES PRESENT:**

**Counsel for the Complainant : CA. Kshitij Goyal (Through VC)**

**Respondent : CA. Naveen Kumar Khairari (In person)**

**1. Background of the Case:**

The Complainant Firm was statutory auditor of M/s. Sunrise Imaging Systems (Proprietorship Firm of Sh. Suresh Sareen), New Delhi (hereinafter referred to as the "Firm"/ "Client") and it has audited and signed the Financial Statement of the firm till 31.03.2020. The Complainant firm continued to be the statutory auditor of the firm as it neither resigned nor was removed. However, it came to their knowledge that the Respondent had accepted the audit of the Firm for the financial year 2020-21.

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2. Charges in brief:-

- 2.1. The Respondent had accepted the Tax Audit of the Firm for the financial year 2020-21 (AY 2021-22) without obtaining NOC/ communicating with the previous auditor, i.e., the Complainant.
- 2.2. The Respondent accepted the audit of the Firm in spite of the fact that the undisputed audit fees of Rs. 2,12,208/- as per financials of FY 2019-20 was outstanding on 31.03.2020.

3. The relevant issues discussed in the Prima Facie Opinion dated 06<sup>th</sup> September 2023 formulated by the Director (Discipline) in the matter in brief, are given below:

- 3.1. In respect of first allegation, it was an admitted fact that the Respondent approached the Client to get them NOC after the receipt of letter from Disciplinary Directorate and that the Respondent had accepted the assignment merely on the basis of confirmation from the Client regarding no dispute between the Client and previous auditor and the said facts clearly indicated that the Respondent had not made communication with the previous auditor before accepting the audit of the Client. Further, the Respondent's claim that the previous auditor was not willing to issue NOC, was also not acceptable as there was nothing on record to show that the Respondent had ever written letter to the previous auditor (Complainant Firm) before accepting audit and the previous auditor had denied the same or not issued the same within the reasonable time.
- 3.2. As per Code of Ethics, the incoming auditor should communicate with the previous auditor to find out whether there are any professional or other reasons due to which he should not accept the appointment. But in the extant matter, the Respondent failed to communicate with the previous auditor before acceptance of audit and completed the audit without any communication. Accordingly, the Respondent was held prima facie Guilty of Professional Misconduct falling within the meaning of Item (8) of Part I of First Schedule to the Chartered Accountants Act, 1949.
- 3.3. In respect of second allegation relating to acceptance of audit for the financial year ended 31.03.2021 inspite of the fact that outstanding audit fees of the previous auditor for the financial year ended 31.03.2020 was unpaid, it was observed that audit fees (Income Tax audit) of Rs.91,000/- for the financial year 2019-20 was outstanding as on 31.03.2020. It was further observed that the professional charges of Rs. 2,12,208/- was also outstanding as at 31.03.2020 which included payables on account of outstanding tax audit fees of Rs. 83,780/- for the financial year 2018-19. In respect of above, the Respondent neither made submissions nor submitted any documentary evidence to show that payment of outstanding

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fees was made to the Complainant firm before acceptance of audit. Despite knowing that audit fees were payable to the previous auditor, the Respondent accepted and completed the tax audit of the client. Hence, the Respondent had violated the requirement of Chapter VII of the Council General Guidelines, 2008. Thus, the Respondent was held prima facie Guilty of Professional Misconduct falling within the meaning of Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

- 3.4. The Director (Discipline) in his Prima Facie Opinion dated 06<sup>th</sup> September 2023 opined that the Respondent was prima facie **Guilty** of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949. The said items of the Schedule to the Act, states as under:

**Item (8) of Part I of the First Schedule:**

*"A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he –*

*(8) 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;"*

**Item (1) of Part II of the Second Schedule:**

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

*(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;"*

**COUNCIL GENERAL GUIDELINES, 2008 (issued under Clause (1) of Part-II of Second Schedule to The Chartered Accountants Act, 1949)**

**Chapter VII**

**Appointment of an Auditor in case of non-payment of undisputed fees**

**7.0** *A member of the Institute in practice shall not accept the appointment as auditor of an entity in case the undisputed audit fee of another Chartered Accountant for carrying out the statutory audit under the Companies Act, 1956 or various other statutes has not been paid:*

*Provided that in the case of sick unit, the above prohibition of acceptance shall not apply.*

**7.1 Explanation 1 -**

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For this purpose, the provision for audit fee in accounts signed by both - the auditee and the auditor shall be considered as "undisputed" audit fee.

**7.2. Explanation 2:**

For this purpose, "sick unit" shall mean a unit registered for not less than five years, which has at the end of any financial year accumulated losses equal to or exceeding its entire net worth.

- 3.5. The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee in its meeting held on 26<sup>th</sup> December 2023. The Committee on consideration of the same, concurred with the reasons given against the charges and thus, agreed with the Prima Facie Opinion of the Director (Discipline) that the Respondent is **GUILTY** of Professional Misconduct falling within meaning of Item (8) of Part I of the First Schedule and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

4. **Date(s) of Written submissions/Pleadings by parties:**

The relevant details of the filing of documents in the instant case by the parties are given below:

S.No.	Particulars	Dated
1.	Date of Complaint in Form 'I' filed by the Complainant	15 <sup>th</sup> August 2022
2.	Date of Written Statement filed by the Respondent	07 <sup>th</sup> October 2022
3.	Date of Rejoinder filed by the Complainant	10 <sup>th</sup> November 2022
4.	Date of Prima Facie Opinion formed by Director (Discipline)	06 <sup>th</sup> September 2023
5.	Written Submissions filed by the Respondent after PFO	27 <sup>th</sup> March 2024
6.	Written Submissions filed by the Complainant after PFO	---

5. **Further Written Submissions of the Respondent:-**

The Respondent, vide letter dated 27.03.2024, inter-alia, submitted as under:-

- 5.1. M/s Sunrise Imaging System (the Respondent's client) was a proprietorship firm, and they approached the Respondent's firm in September 2021 to perform the tax audit of the firm for the financial year 2020-21.



- 5.2. The Client was instructed to arrange the NOC from the previous auditor, and the Respondent was told that there was no dispute between his client and the previous auditor.
- 5.3. The Client again approached the Respondent's Firm in January 2022 and requested them to perform the tax audit of the Firm. The tax audit of the Firm was completed on 16.01.2022 without having prior communication with the previous auditor because of busy schedule. There was no malafide intention behind this.
- 5.4. All dues of the previous auditor were cleared in the month of April, 2023.
- 5.5. The Respondent requested the Committee for lenient view in the matter.

6. **Brief facts of the Proceedings:**

- 6.1. The details of the hearing(s) fixed in said matter is given as under:

Particulars	Date of meeting(s)	Status
1 <sup>st</sup> Hearing	28 <sup>th</sup> May 2024	Hearing Concluded and Decision taken

- 6.2. On the day of hearing on 28<sup>th</sup> May 2024, the Committee noted that the Respondent and Counsel for the Complainant were present and appeared before it. Being first hearing of the case, the Respondent was put on Oath.
- 6.3. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges against him and then the charges as contained in Prima Facie Opinion were read out. On the same, the Respondent replied that he is aware of the charges and pleaded 'Guilty' to the charges levelled against him. The Respondent accepted that he had not done prior communication with the Complainant as per the requirement of Item 8 of Part I of the First Schedule to the Chartered Accountants Act, 1949, but audit fees of the Complainant was paid. The Counsel for the Complainant submitted that the audit fees were received, but the same was paid after filing of subject complaint with ICAI.
- 6.4. After recording the plea of the Respondent and in view of Rule 18(8) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee decided to conclude the hearing in the captioned case, and the decision was taken.

7. **Findings of the Committee:-**

- 7.1. The Committee noted that the Respondent pleaded himself 'Guilty' before it at the time of the hearing. Accordingly, the Committee, in terms of Rule 18(8) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and



Conduct of Cases) Rules, 2007, recorded his plea and decided to pursue the case/ take action under Rule 19.

8. **Conclusion:**

In view of the findings stated in above paras vis-à-vis material on record, the Committee gives its charge wise findings as under:

Charges (as per PFO)	Findings	Decision of the Committee
Para 2.1.and Para 2.2 as above	Para 7.1 as above	<b>Guilty-</b> Item (8) of Part-I of First Schedule and Item (1) of Part II of the Second Schedule

9. In view of the above noted facts and discussion, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (8) of Part-I of First Schedule and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-

(CA. RANJEET KUMAR AGARWAL)  
PRESIDING OFFICER

Sd/-

(SHRI JIWESH NANDAN, I.A.S. {RETD.})  
GOVERNMENT NOMINEE

Sd/-

(MS. DAKSHITA DAS, I.R.A.S.{RETD.})  
GOVERNMENT NOMINEE

Sd/-

(CA. MANGESH P KINARE)  
MEMBER

Sd/-

(CA. ABHAY CHHAJED)  
MEMBER

DATE: 16/10/2024

PLACE: New Delhi

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मोनु गुप्ता / Monu Gupta  
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer  
अनुशासनशास्त्र निदेशालय / Disciplinary Directorate  
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
आर्यभट्ट रोड, बिरला भवन, बिरला नगर, शाहदरा, दिल्ली-110032  
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