



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

[PR/197/2021/DD/274/2021/BOD/744/2024]

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. Jai Kumar Mansharamani (M. No. 073450),
Partner of M/s Khandelwal Khare & Associates, Chartered Accountants
19, ODA SFS Flats, Opposite Ansal Plaza, Niti Bagh,
New Delhi.....Complainant

Versus

CA. Dinesh Kumar Ahuja (M. No. 080757)

Professional Address	Residential Address
5328/67, First Floor, HS Road, Karol Bagh, New Delhi	B4/17 Rajouri Garden, New Delhi

.....Respondent

[PR/197/2021/DD/274/2021/BOD/744/2024]

MEMBERS PRESENT (THROUGH VIDEO CONFERENCE):

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

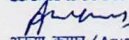
Date of Hearing and passing Order: 10th January 2025

- The Board of Discipline vide its findings dated 14th December 2024 was of the view that CA. Dinesh Kumar Ahuja (M. No. 080757) 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.
- An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against CA. Dinesh Kumar Ahuja (M. No. 080757) and communication dated 2nd January 2025 was addressed to him thereby granting him an opportunity of being heard on 10th January 2025 which was exercised by him by being present through video conferencing. He confirmed receipt of the findings of the Board.
- Thus, upon consideration of the facts of the case, the consequent misconduct of CA. Dinesh Kumar Ahuja (M. No. 080757) and keeping in view of his representation before it, the Board decided to impose a **Fine of Rs.25,000/- (Rs. Twenty-Five Thousand only)** upon CA. Dinesh Kumar Ahuja (M. No. 080757).

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

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

सही प्रतिलिपि होने के लिए प्रमाणित
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अरुण कुमार / Arun Kumar
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशक / Disciplinary Director
इंस्टीट्यूट ऑफ चार्टर्ड अकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आर्डीसीएआई भवन, नवम मंजिल, सावर्य, दिल्ली - 110032
IN-080757

BOARD OF DISCIPLINE

(Constituted under Section 21A of the Chartered Accountants Act 1949)

FINDINGS UNDER RULE 14 (9) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007

CORAM (THROUGH VIDEO CONFERENCE):

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

IN THE MATTER OF:

CA. Jai Kumar Mansharamani (M. No. 073450)

Partner of M/s Khandelwal Khare & Associates, Chartered Accountants
19, DDA SFS Flats, Opposite Ansal Plaza, Niti Bagh

New Delhi..... Complainant

Versus

CA. Dinesh Kumar Ahuja (M. No. 080757)

Professional Address: 5328/67, First Floor, HS Road, Karol Bagh, New Delhi	Residential Address: 163/1, Vani Vilas Road, Basavanagudi, Bengaluru
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.... Respondent

Date of Final hearing : 28th October 2024
Place of Final hearing : New Delhi

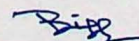
PARTIES PRESENT (THROUGH VC):

Complainant : CA. Jai Kumar Mansharamani

FINDINGS:

BACKGROUND OF CASE

1. The instant case revolves around a complaint filed by a firm that served as a Statutory Auditor of the Ridhima Overseas Private Limited ("**Company**") from 30th September 2014. The firm represented by the Complainant as the signing partner resigned on 18th October 2018 due to a lack of co-operation from the Company during the statutory audit for financial year 2017-18. The resignation was formalized by filing Form ADT-3 with the Registrar of Companies on 30th March 2019. Despite resignation, the Company failed to settle outstanding dues, and the Complainant was requested by the Company's Director Ms. Indu



Sud to issue a No Objection Certificate (NOC) to the newly appointed auditors. However, the new auditor of M/s Y S & Associates, did not provide proper firm credentials in his communication with the Complainant, leading to repeated but unanswered requests for verification from the Complainant. In March 2020, the Complainant discovered that the financial statements for financial year 2017-18 and financial year 2018-19 had been signed by the Respondent on 31st October 2018 and 07th September 2019 respectively, without seeking the required NOC. Additionally, the Complainant accused the Respondent of backdating the audit reports, causing a delay in the statutory filings with the Registrar of Companies, which were completed in February 2020. Despite several objections raised via email, including one on 18th September 2020, concerning the outstanding dues and irregularities in the appointment process, the Respondent did not respond, prompting the Complainant to lodge this complaint.

CHARGE ALLEGED:

2. It is alleged that the Respondent has accepted the Statutory Audit Assignment of the Company for the financial year 2017-18 to 2018-2019 without prior communicating with the previous auditor (i.e., the Complainant) and without ensuring the payment of the Audit fee to the Complainant. Hence, the Respondent has made contravention of Item (8) of Part I of First Schedule to the Chartered Accountants Act, 1949.

BRIEF OF PROCEEDINGS HELD:

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

Date of Hearing	Status of hearing
28 th October 2024	Matter is heard and the hearing is concluded.

OBSERVATIONS OF THE BOARD:

4. At the outset, the Board noted that despite notice, the Respondent has not appeared whereas the Complainant appeared before it through Video Conference on the date of hearing of the instant matter and submitted that he has resigned from the Company on 18th October 2018 for the financial year 2017-18 due to lack of non-cooperation from the company while conducting the assignment of audit for which ADT-3 was filed with the Registrar of Companies on 30th March 2019. Further, he has received an e-mail from a Chartered Accountant firm YS & Associates that they have been appointed as auditor and whether the Complainant has any objection to their accepting the appointment. In response thereof, the Complainant requested them to show him the firm record / credentials and appointment letter issued by the Company, but no response was received. Subsequently, the Complainant inspected the uploaded financial statements of the Company pertaining to financial years 2017-18 and 2018-19 from the portal of MCA on 09th March 2020. Upon perusal of the said financial statements, the Complainant observed

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that the same were signed by the Respondent on 31st October 2018 and 07th September 2019 respectively without seeking NOC from the Complainant firm before accepting the statutory audit of the Company.

5. The Board further noted that the Complainant sent an email dated 18th September 2020 to the Respondent apprising him of his outstanding dues from the Company and objection to his appointment as the statutory auditor. However, despite sending reminder emails several times, the Respondent failed to revert to the Complainant.
6. The Board further noted that the Complainant alleged that the Respondent has backdated the audit report and financial statements of the Company, as such, the statutory annual filings with the Registrar of Companies for the said years were completed belatedly in February 2020. Further, from the portal of MCA, form ADT-1 for appointment of the Respondent as auditor for financial year 2018-19 was filed on 30th July 2020 and form ADT-3 for the resignation of the Respondent was filed on 14th January 2021. However, as regard all allegations except Item (8) of Part-I of First Schedule to the Chartered Accountants Act, 1949, the Director (Discipline) in his Prima Facie Opinion rightly recorded as under: -

"Perusal of record shows that in the instant complaint, the Complainant has alleged that the Respondent has violated the provisions of Items (5), (6), (7) and (9) of Part I of the Second Schedule and Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949. Perusal of record further shows that the Complainant has not placed on record any documentary evidence in support of the allegations related to the violation of the provisions of Items (5), (6), (7) and (9) of Part I of the Second Schedule. Meaning thereby, the Complainant has levelled unsubstantiated and bald allegations against the Respondent, hence, there is no substance in these allegations. In the result, the alleged violation of the provisions of Items (5), (6), (7) and (9) of Part I of the Second Schedule are liable to be dropped. In the circumstances, the only allegation against the Respondent is that the Respondent has accepted the statutory audit assignment of the Company for the FYs 2017-18 and 2018-19 without prior communication with the Complainant and without ensuring the payment of the audit fees to the Complainant by the Company".

Thus, the Board examined the sole allegation concerning the Respondent's acceptance of the statutory audit assignment for the financial years 2017-18 and 2018-19 without prior written communication with the Complainant.

7. The Board noted that item (8) of Part-I of the First Schedule to the Chartered Accountants Act, 1949, unambiguously mandated that a Chartered Accountant must communicate in writing with the outgoing auditor before accepting an audit assignment previously held by another Chartered Accountant. This statutory provision was intended to enable the incoming auditor to understand

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the reasons for the change and to safeguard the interests of both the public and the profession's independence.

8. The Board noted that the record demonstrated that the Respondent received an appointment letter on 26th October 2018, to serve as the Company's Statutory Auditor, with Form ADT-1 subsequently filed with the Registrar of Companies on 30th July 2020. While the Respondent claimed to have sent a letter requesting a No Objection Certificate (NOC) to the Complainant Firm, however, no conclusive evidence, such as a delivery report or acknowledgment, was submitted to prove receipt by the Complainant. It was significant that the Code of Ethics 2009, explicitly required the incoming auditor to retain verifiable proof of delivery, as evidenced by the guidelines that communication with the outgoing auditor should ideally be via registered post or hand delivery with due acknowledgment. This lack of proof indicated a failure to fulfil the due process as prescribed by the Code of Ethics 2009. The relevant extract governing such provision is provided in the Code of Ethics, (Edition 2009) at pages 165-166, which is extracted, for reference, hereunder:

"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 Acknowledgment due" or by hand against a written acknowledgment would in the normal course provide such evidence."

9. Besides above, the Board noted that the Respondent has not placed on record any documentary evidence to indicate the delivery of the NOC letter to the Complainant Firm. Thus, the Charge against the Respondent of non-communication to the Complainant prior to acceptance of statutory audit assignment of the Company for the financial year 2017-18 remains unrebutted. Meaning thereby, the Respondent had accepted the position as statutory auditor in the Company without prior communicating with the Complainant in the manner as provided under Code of Ethics. Thus, in conclusion, based on the documents on record and considering the requirements of the Code of Ethics, the Board found that the Respondent, by failing to ensure documented communication with the Complainant, committed a breach of Professional Misconduct under Item (8) of Part-I of the First Schedule to the Chartered Accountants Act, 1949. Accordingly, the Respondent is found '**Guilty**' of Professional Misconduct in this regard. However, the allegation of accepting the assignment without ensuring payment of undisputed fees was unsubstantiated and was therefore rightly dismissed by the Director (Discipline) in his Prima Facie Opinion.

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CONCLUSION:

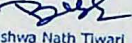
10. Thus, in conclusion in the considered opinion of the Board the Respondent is '**Guilty**' of Professional Misconduct falling within the meaning of Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

Sd/-
CA. Rajendra Kumar P
Presiding Officer

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

Date: 14-12-2024

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