

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 Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

CORAM (THROUGH VC):

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

IN THE MATTER OF:

Shri Rajendra Rungta

Partner, M/s Shankar Industries

F-56, Industrial Area Newai

Distt-Tonk – 304021 Rajasthan..... **Complainant**

Versus

CA. Surendra Kumar Rungta (M. No. 057447)

M/s. S. Rungta & Co. (FRN 008589C)

B-15, Akshat Apartment D-235,

Bihari Marg Bani Park

Jaipur- 302 016 Rajasthan..... **Respondent**

Date of Final hearing : **28th October 2024**
Place of Final hearing : **ICAI Bhawan, New Delhi**

PARTIES PRESENT:

Respondent : **CA. Surendra Kumar Rungta (Through VC)**

FINDINGS:

BACKGROUND OF CASE:

1. The present case arises out of allegations levelled by the Complainant against the Respondent, who is his real brother, regarding purported violations of the provisions of the Chartered Accountants Act, 1949. The allegations pertain to the Respondent's involvement in M/s Shankar Industries (hereinafter referred to as "the Firm"), a family-run partnership firm, wherein the Respondent was inducted as a partner effective from 01.04.1994 under a partnership deed executed with the Complainant and their father.
2. The Complainant has alleged that the Respondent continued to act as a working partner in the Firm even after passing the Chartered Accountancy Examination and

becoming a member of the Institute of Chartered Accountants of India (ICAI) on 11.10.1995, in violation of the provisions of the Chartered Accountants Act, 1949. It is further alleged that during the Complainant's hospitalization, the Respondent obtained his signature on a stamp paper with the intent of misusing it for the Complainant's purported retirement from the Firm and subsequently informed the Bank that he was a working partner in the Firm.

3. In response to these allegations, the Respondent has asserted that he sought and obtained permission from ICAI to continue as a non-working partner in the Firm. This claim is substantiated by a letter dated 17.02.1997 issued by the Kolkata office of the ICAI, wherein permission was granted to the Respondent to remain a partner in the family business, provided he took no active part in its operations. The Respondent has further clarified that his role in the Firm was limited to being a sleeping partner and that merely informing the Bank about his position within the Firm does not establish that he acted as a working partner.
4. The case, therefore, revolves around whether the Respondent's association with the Firm contravened the provisions of the Chartered Accountants Act, 1949, and whether the allegations of misconduct levelled by the Complainant are substantiated by any corroborative evidence.

CHARGES ALLEGED:

5. The Complainant alleged that the Respondent was working as a partner in M/s Shankar Industries since 01.04.1994 and even after passing Chartered Accountancy Examination and becoming member of the ICAI w.e.f. 11.10.1995 in violation of the provisions of the Chartered Accountants Act, 1949. It has also been alleged that when the Complainant was hospitalized, the Respondent took the signature of the Complainant on stamp paper for his retirement purpose and wrote a letter to the bank stating himself as a working partner of the firm.

BRIEF OF PROCEEDINGS HELD:

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

Date of Hearing/(s)	Status of hearing/(s)
07 th November 2023	Adjourned due to non-appearance of the Complainant
28 th October 2024	Judgement reserved with directions to the Respondent to file an Affidavit
27 th December 2024	The case is concluded

BRIEF SUBMISSIONS OF THE RESPONDENT:

7. The Respondent submitted that Para (68) is regarding provision of salary to working partner and Para (10) is regarding operation of bank of the partnership deed dated 01st April 1994, which is of that time when he was not even a Chartered Accountant. After Passing Chartered Accountancy Examination, a supplementary partnership deed dated 15.07.1996 was prepared and submitted to the Institute for seeking permission while having Certificate of Practice in the year 1996 nullifying the aforesaid Para (68) & Para (10) of the said deed.

8. Further, regarding showing the credit of salary in the capital account of Respondent in the year 1997-98 & 1998-99, it is submitted that this salary was credited as an error of repetition of earlier years entries in the books and continue to show salary by the Complainant & getting audited by Chartered Accountant without taking into account of the provision of supplementary partnership deed dated 15.07.1996, but never paid to him. He has neither prepared books nor audited or signed any balance sheet and nor this salary was paid to him. Therefore, he cannot be held liable for wrong entry of credit done in books by other partner, who was totally aware about signing the deed as the Complainant himself has informed ICAI through several letters that he has signed deed on stamp paper in the year 1996. Respondent also submitted that this mistake of credit of salary was done only for 2 years in the year of 1997-98 & 1998-99 and from the year 1999-2000, it was stopped (25 years back) and no credit of salary was shown from the year 1999-2000 till closure of Factory in the year of 2015-16. The timeline of Partnership Deed starts from 01.4.1996 and continues till closure of the Factory in the year of 2015-16 and during this tenure a supplementary deed dated 15.07.1996 was only made.
9. The Respondent further submitted that an RTI application dated 15.03.2014 was sent to the IndusInd Bank requesting to obtain copy of documents of Shankar industries and forged signature of his father Krishna Gopal Rungta who was staying with the Respondent having hip Injury and could not go to bank and further to stop the Complainant to take crores of rupees of loan by wrong means and all partners may fall in trouble & indebted.

OBSERVATIONS OF THE BOARD:

10. The Board observed that the present matter arises from a complaint filed by the Complainant, who is the brother of the Respondent. The firm in question consists of three partners, namely the Complainant, the Respondent and their father. It is undisputed that the Respondent became a partner in the firm on 01.04.1994. Subsequently, the Respondent passed the Chartered Accountancy Examination and was enrolled as a member of the Institute of Chartered Accountants of India on 11.10.1995. Thereafter, the Respondent obtained a Certificate of Practice on 09.10.1996 and sought permission from ICAI to act as a partner in the firm. The ICAI, vide its letter dated 07.02.1997, granted the Respondent permission to act as a non-working (sleeping) partner.
11. The Complainant alleged that the Respondent acted as a working partner of the firm, receiving a salary during the Assessment Years 1995-96 to 1998-99. The Complainant supported this claim by submitting income statements of the firm for the said period. In response, the Respondent denied the allegations and asserted that the entries in question were manipulated by the Complainant for tax-saving purposes. The Complainant further alleged that the Respondent withdrew amounts from the firm through cash and cheques, but no documentary evidence was provided to substantiate these claims. Notably, the capital account of the firm, audited by a Chartered Accountant, does not conclusively support the allegations.
12. It is also observed that the present matter appears to stem from a family dispute between the Complainant and the Respondent, casting doubt on the impartiality of the allegations. Additionally, the Complainant alleged that the Respondent coerced him into signing stamp papers for retirement. However, the Complainant failed to provide



