

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: (IN PERSON)

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

IN THE MATTER OF:

CA. Murari Lal Rajoria (M.No. 062901)

M/s M L Rajoria & Associates

2nd Floor, Usha Complex,
MG Road, P.O. Birpara, Distt. Alipurduar,
Birpara – 735 204

(West Bengal)..... Complainant

Versus

CA. Satish Kumar (M. No. 302258)

M/s. S Kumar & Associates (FRN- 327642E)

Chartered Accountants,
8/6, First Floor, Netaji Nagar
Kolkata - 700 092

(West Bengal) Respondent

Date of Final hearing : 14th December 2024
Place of Final hearing : 'ICAI Bhawan' Kolkata

PARTIES PRESENT

Respondent : CA. Satish Kumar (In Person)

FINDINGS:

BACKGROUND OF CASE

1. In this case, on 02nd May 2020, the Complainant firm was appointed as the Statutory Auditors of Falakata Branch and Cooch Behar Branch of the State Bank of India (hereinafter referred to as the "**Bank**") for the purpose of

conducting statutory audit of two branches for the financial year 2019–2020. Subsequently, on 16th May 2020, the Bank withdrew the Complainant firm's appointment as the Bank's Statutory Branch Auditors and transferred the audit to the Respondent firm because the Complainant firm was unable to finish the audit within the scheduled time given by the Bank, and on 18th May 2020, the Respondent firm was appointed as the Statutory Auditor of Falakata Branch of the Bank.

2. As per the Complainant, subsequently, the Respondent firm vide e-mail dated 18th May 2020, requested M/s. Pradip Agarwala & Associates (Statutory Branch auditor of immediately preceding financial year 2018-19), (hereinafter referred to as the "**Previous Year Auditor**") to provide 'No Objection Certificate '(NOC) on acceptance of the audit of the bank by the Respondent firm. In response, the previous year auditor said that he had already given the NOC to the Complainant Firm and would not give it to the Respondent firm again.

CHARGES ALLEGED:

3. The Complainant alleged that the Respondent firm has conducted the audit and submitted the Long Form Audit Report for the financial year 2019-20 of the aforesaid two branches of the bank without first obtaining No Objection Certificate (NOC) from the Complainant firm. According to the Complainant, the Respondent firm has violated Item (8) of Part-I of the First Schedule to the Chartered Accountants Act, 1949

BRIEF OF PROCEEDINGS HELD:

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

Date of Hearing(s)	Status of hearing(s)
14 th December 2024	The case is heard and concluded

BRIEF SUBMISSION OF THE RESPONDENT

5. The Respondent submitted that the Complainant alleged that the Respondent Firm conducted an audit and submitted the Long Form Audit Report for the financial year 2019-20 for a branch of the State Bank of India without first obtaining a No Objection Certificate (NOC) from the Complainant. Regarding this allegation, it was noted that Item (8) of Part I of the First Schedule to the Chartered Accountants Act, stipulates that a Chartered Accountant in practice is Guilty of Professional Misconduct if they accept a position as auditor previously held by another Chartered Accountant without first communicating with the prior auditor in writing. The law mandates communication with the previous auditor, but not permission. To clarify, the Respondent stated that the details of the previous auditor were not publicly available, and only the bank could provide this information. The bank informed the Respondent that M/s. Pradip K. Agarwala & Associate were the

previous auditor for the branch in question, which was confirmed in the appointment letter dated 18th May 2020. In compliance with the relevant laws, the Respondent then requested NOC from M/s. Pradip K. Agarwala & Associate, the auditor for the financial year 2018-2019, via email on 18th May 2020.

6. Respondent further submits that a response was received from M/s. Pradip K. Agarwala & Associates, who informed the Respondent that they had already provided an NOC to another firm. By the time the reply was received, the deadline was approaching. Additionally, M/s. Pradip K. Agarwala & Associate included the Complainant in their email response to the Respondent.
7. The Respondent explained that, given the approaching deadline and the pressing circumstances under which the audit was assigned, prompt action was necessary. The national lockdown imposed by the Government further complicated the situation, and the approaching Amphan cyclone threatened the West Bengal region. These factors left the Respondent with no choice but to proceed with the audit without delay, as any further delay could have led to serious defaults on the bank's part. Considering these challenges, the Respondent, acting in good faith, conducted and completed the audit within the stipulated time.
8. Besides above, the Respondent also asserted that the law requires only written communication with the previous auditor before taking up the assignment, not their permission. Therefore, there was no reason for the Respondent to refuse the bank's audit assignment. The Respondent complied with Item (8) of Part-I of the First Schedule of the Chartered Accountants Act, 1949 by sending an email to the previous auditor to ascertain any professional objections. This requirement was also satisfied by the Complainant Firm's direct communication with the Respondent regarding any objections to the appointment. Furthermore, the Respondent argued that the Complainant did not have the standing to file this complaint, as it appeared that the Complainant's issues lay with the bank, given that they had been removed from the branch auditor position due to delays in completing their work.
9. Finally, the Respondent requested that the Prima Facie Opinion of the Director (Discipline) appointed under Section 21 read with Section 16 of the Chartered Accountants Act, 1949, be accepted and that the proceedings under Chapter IV of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, be resolved in the Respondent's favour, considering the facts of the case and the clear position of the law.

OBSERVATIONS OF THE BOARD:

10. The Board noted that the allegation under scrutiny concerns the Respondent Firm's purported failure to communicate with the immediate previous auditor, as required under Item (8) of Part-I of the First Schedule to the Chartered Accountants Act, 1949, before accepting the audit of the Falakata Branch of State Bank of India for the financial year 2019-20. Upon detailed examination, it was noted that the Respondent Firm acted in good faith and adhered to the professional ethics by attempting communication with the previous year's auditor,

whose details were provided by the Bank. The said communication was made through email, and the previous auditor's response did not object to the Respondent's appointment per se but instead redirected them to the Complainant Firm.

11. It was further observed that the Complainant Firm raised an objection to the Respondent's appointment via email, citing their removal as unethical. This objection was received by the Respondent Firm before any direct communication could be initiated by them with the Complainant Firm. In this context, the purpose of the statutory requirement to communicate with the outgoing auditor, which is to ascertain any professional objections, was substantively fulfilled, as the Complainant Firm voluntarily raised their concerns directly.
12. Additionally, the records do not reveal any irregularities in the audit process or financial statements of the Falakata Branch that would necessitate the Respondent Firm's withdrawal from the audit. The Ethical Standards Board of the ICAI has also clarified that the Complainant's removal was not deemed unjustified. Thus, no tangible grounds were established to conclude that the Respondent Firm was professionally obligated to decline the audit.
13. In light of the above considerations, the Respondent Firm appears to have acted within the bounds of Professional Ethics and Statutory requirements. The principle of substance over form applies in this instance, and the Respondent's actions effectively satisfied the intended purpose of the Code of Ethics. Thus, the Board held the Respondent Not Guilty for the Charge alleged.

CONCLUSION:


14. Thus, in conclusion, in the considered opinion of the Board the Respondent is **Not Guilty** of Professional Misconduct falling within the meaning of Clause (8) of Part I of 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

Date: 25-01-2025

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


नीलम पुंडीर / Neelam Pundir
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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