

**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 Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007**

**CORAM (PRESENT IN PERSON):**

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

**IN THE MATTER OF:**

**CA. Hari Sethumadhavan Nair (M. No. 049747) in Re.**

Flat No. B-202, Burlington-B Wing

Raheja Reflections

Mumbai (Maharashtra).....Respondent

**Date of Final Hearing** : **18<sup>th</sup> January 2025**  
**Place of Final Hearing** : **ICAI Bhawan, Mumbai**

**FINDINGS:**

**BACKGROUND OF THE CASE:**

1. An attention has been invited to the press release(s) by the Central Bureau of Investigation (CBI) dated 2<sup>nd</sup> April 2011 and 25<sup>th</sup> April 2011 and news items under different headings published in 'The Times of India' dated 3<sup>rd</sup> April 2011, 21<sup>st</sup> April 2011, 10<sup>th</sup> May 2011 and 24<sup>th</sup> May 2011 containing allegations against CA. Hari S. Nair (hereinafter referred to as the Respondent). Based on these press release(s) and news items and on an overall examination of allegations, the matter has been treated as information within the meaning of Rule 7 of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
2. As per the information letter dated 25<sup>th</sup> May 2011 read with chargesheet filed, press release/(s) and news items, the allegations, in brief, are that the Respondent in collusion with CA. Gautam Doshi (the Respondent in case no. PPR / 8 / W / 2011 / DD / 4 / W / INF / 2011/BOD/316/2017) and others, structured different companies. Further, he has been instrumental in transferring funds of Rs. 95.51 crores and Rs. 3 crores to M/s Tiger Traders Pvt. Ltd. (hereinafter referred to as "TTPL") and M/s Swan Telecom Pvt. Ltd.

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(hereinafter referred to as "STPL") respectively. Besides, being Company Secretary of STPL, he was also on the Board to various companies and was also the authorized bank signatory. He, in league with CA. Gautam Doshi and others, dishonestly and fraudulently submitted false information to DoT under the signatures regarding his shareholding by different companies thereby concealing the material facts, which could lead DoT to consider the company eligible for getting UAS license.

#### **CHARGES ALLEGED:**

3. The Respondent, in collusion with CA. Gautam Doshi (the Respondent in case no. PPR/8/W/2011/DD/4/W/INF/2011/BOD/316/2017) and others, structured different companies. He has been instrumental in transferring funds of Rs. 95.51 crores and Rs. 3 crores to M/s Tiger Traders Pvt. Ltd. (hereinafter referred to as "TTPL") and M/s Swan Telecom Pvt. Ltd. (hereinafter referred to as "STPL") respectively. Besides being Company Secretary of STPL, he was also on the Board of various companies and was also the authorized bank signatory. He, in league with CA. Gautam Doshi and others, dishonestly and fraudulently submitted false information to DoT under the signatures regarding his shareholding by different companies thereby concealing the material facts, which could lead DoT to consider the company eligible for getting UAS license.

#### **BRIEF OF PROCEEDINGS:**

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

S. No.	Date of Hearing(s)	Status of Hearing(s)
1.	22 <sup>nd</sup> May 2018	The oath was taken by the Respondent. Part heard & adjourned.
2.	29 <sup>th</sup> March 2023	The matter was adjourned due to the non-appearance of the Respondent.
3.	18 <sup>th</sup> January 2025	Hearing is concluded ex-parte, and the Judgement was reserved.
4.	28 <sup>th</sup> January 2025	The Board pronounced the Judgment in the matter.

#### **BRIEF SUBMISSIONS OF THE RESPONDENT:**

5. The Respondent submitted that the matter was pending before the Special Court who conducts the proceedings on a day-to-day basis. He has stated that he was an employee of Reliance ADA Group and always acted to the best of abilities, diligence and keeping the highest professional standards as required under the Chartered Accountants Act, 1949 and always followed instructions given to him after consulting other professionals and advisors. He pleaded innocence and stated that he has not committed any act that amounts to professional misconduct.
6. The Respondent also submitted that the charge-sheet alone cannot be the basis to treat the matter as information under Rule 7 (1) and the proceedings cannot be said to be initiated as per the provisions of Rule 8 (1) of the Rules and hence, there is no call for the



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formal declaration and verification under Rule 8 (2) of the Rules and requested to hold back the matter as the matter is sub-judice.

7. The Respondent also submitted that such allegation is identical to the charge sheet filed by the CBI in the Trial Court. The said allegations, as levelled by the CBI, have been argued and contested vehemently, including from the stage of the arguments of charges before the Trial Court till recording of his statement under Section 313 of the Code of Criminal Procedure, 1973. At no point in time, he has failed to contest the allegation before the Trial Court. The Respondent also drawn attention of a judgement passed by the Hon'ble Supreme Court in the matter of SBI Vs. Neelam Nag [2016 (9) SCC 491] which states that it would be inappropriate for disciplinary proceedings to continue in such circumstances and any adjudication on the merits/truth of the allegation prior to the judgement of the Trial Court would undermine the 'presumption of innocence'.

**OBSERVATIONS OF THE BOARD:**

8. At the outset, the Board noted that there is another matter of CA. Gautam Doshi in Re. under file no. PPR/8/W/2011-DD/4/W/INF/2011-BOD/316/2017 which was also listed for hearing before the Board and the charges in both the cases are similar. Because of the similarity of the charges, the Board decided to hear the extant matter ex-parte along with the case of CA. Gautam Doshi.
9. The Board further noted that in the Trial Court, the Respondent was named as Accused No. 11 in the charge-sheet whereas CA. Gautam Doshi was named as Accused No. 9. Therefore, keeping in view the similarity of charges, common Order passed by the Trial Court, grounds of the charges, the Board, while considering the common documents decided to hear the instant matter ex-parte.
10. While hearing the matter of CA. Gautam Doshi, the Board noted that he has been acquitted by the Special CBI Court. While going through the submissions made by the Respondent, the Board observed that as far as the Respondent is concerned, the Trial Court has observed that there is enough evidence on record to believe that STPL was under the ownership, management and control of the D B Group by 3<sup>rd</sup> March 2007 as it is clear from the Examination-in-Chief as well as Cross-Examination of various witnesses in the matter. It has also been observed that STPL already stood transferred from Reliance ADA Group to Shri Nilesh Doshi and Shri Sunil Doshi firstly and from them to Shri Anand Bhatt and Shri Ashok Wadhwa secondly and from them finally to D B Group on 2<sup>nd</sup> March 2007, the date when the applications were filed. On that day, it was D B Group Company and RTL held only a minority shareholding in this company, limited to 9.9% only and, as such, the company was fully eligible to apply for fresh licences. Accordingly, the Board observed that the Trial Court has rightly held that the STPL stood transferred to D B Group by 03<sup>rd</sup> March 2007.
11. As regards the funding of STPL by Reliance ADA Group is concerned, the Board observed that based on large number of fund transfer documents like cheques, RTGS receipts, invoices, etc. Trial Court has rightly stated that when Mr. Sethuraman has deposed that except crossholding by way of equity shares, there is no bar on other type of funding by instruments like preference shares, debentures, etc. The investments are only in one

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14. The Board observed that the above observations of the Special Court, clearly indicates that there is lack of evidence, *inter alia*, against the Respondent. The Board further noted that the charge-sheet as produced by the CBI in the Court is mainly based on misreading, selective reading, non-reading and out of context reading of the official records and the same was not accepted by the said Court. Accordingly, the Board noted that the conclusion as arrived at by the Special Court saying "**.....I have no hesitation in holding that the prosecution has miserably failed to prove any charge against any of the accused...**". Therefore, the Board noted that the Special Court has acquitted all the accused (including the Respondent) in the matter.
15. Thus, on a detailed perusal of the submissions and documents on record, the Board noted that the primary evidence which the Respondent has brought on record for the charges alleged against him, the copy of the Order of the Special CBI Court, the documents on record and the observations of the Trial Court, the Respondent has substantially proved his defense on the charge that he has played an active role in structuring and funding of M/s Swan Telecom Pvt. Ltd., M/s Tiger Traders Pvt. Ltd. and other companies in such a fashion so as to show that these were eligible to apply for UAS Licenses. In view of the same, the Board, after considering all relevant facts and documents on record, has decided to hold the Respondent Not Guilty in respect of the charge alleged.

**CONCLUSION:**

16. Thus, keeping in view the facts and circumstances of the matter and the submissions made and documents on record, the Board is of the unanimous view that the Respondent is **Not Guilty** of Other Misconduct falling within the meaning of Item (2) of Part IV of the 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 instant 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**

**Sd/-**

**CA. Priti Savla  
Member**

**Date: 10-02-2025**

प्रमाणित सत्य प्रतिलिपि / Certified true copy

  
सीए अंशुल कुमार / CA. Anshul Kumar  
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