

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
CA. Priti Savla, Member

IN THE MATTER OF:

Sh. Ambuj Sharma

M/s Bensfurt Internet private Limited

582, Ground Floor,

Niti Khand-2, Indrapuram

Shipra Sun City, Ghaziabad.....**Complainant**

Versus

CA. Heetendra Kumar Jain (M. No. 096077)

M/s Heetendra Jain & Co.

Chartered Accountants

C/o. Jay Sadan

Near Khadi Ashram

Alwar (Rajasthan).....**Respondent**

Date of Final hearing : **25th January 2025**
Place of Final hearing : **ICAI Bhawan, Jodhpur**

PARTIES PRESENT:

Respondent : **CA. Heetendra Kumar Jain (Through VC)**

FINDINGS:

BACKGROUND OF CASE:

1. The Respondent was the previous Auditor of **M/s Bensfurt Internet private Limited** (hereinafter referred to as the "**Company**") who resigned on 11th August 2020 as auditor of the Company and also submitted ADT-3 (Notice of resignation by the auditor) on 17th August 2020. Consequently to his resignation, the Company approached M/s Vishnoi & Co, the new CA firm for its appointment as statutory



auditor of the Company to fill the casual vacancy. In compliance with the requirement of the provision of Chartered Accountants Act and Code of Ethics – 2009, M/s Vishnoi & Co, the incoming auditor before accepting such audit of the company vide its email dated 17.08.2020 communicated with the Respondent through email and registered post for its objection, if any. When no reply was received at a reasonable time, a reminder email dated 31.08.2020 was sent to the Respondent to which the Respondent replied on the same day and asked for the following documents from M/s Vishnoi & Co, the incoming auditor:

1. Minutes of Board meeting and Extraordinary General Meeting for appointment of their firm as an auditor.
 2. Their appointment letter.
 3. ADT – 1 and MGT – 14 along with payment confirmation from MCA.
2. The above-mentioned documents/information required by the Respondent were submitted to the Respondent on the same day i.e., on 31.08.2020 and in such an email, it was also stated by the incoming auditor that they were seeking NOC on the following grounds:
1. Any material information known on any facts or circumstances which warrant their firm not to accept the appointment.
 2. Any professional or other reasons, fact that they should be aware of before accepting the appointment.
 3. Pending from the company any undisputed audit fee of Respondent's firm.
3. The Respondent, however, vide his email dated 01.09.2020, expressed his inability to give NOC to M/s Vishnoi & Co, the incoming auditor stating the following:
- "We are unable to issue the NOC on the basis of attached BR. Please readout the provision of Companies Act, 2013 and rules made thereunder carefully before passing any resolution as said BR (dated 13 Aug'20) issued by the company is not as per the provision of Act."***
4. M/s Vishnoi & Co, the incoming auditor vide its email dated 04.09.2020, again requested the Respondent to provide his NOC on the grounds as mentioned in Para-2 above. However, the Respondent again vide his email dated 05.09.2020, raised his objection before the incoming auditor on the same ground as he mentioned in his email dated 01.09. 2020. Consequently M/s Vishnoi & Co, the incoming auditor vide their email dated 05.09.2020 to the company refused to accept the audit of the company.

CHARGES ALLEGED:

5. It is alleged by the Complainant that the Respondent has ignored the Professional Ethics of ICAI and intentionally created trouble providing NOC to a new CA firm and due to Respondent's malafide intention, they were unable to appoint a new auditor.



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 at the request of Respondent.
25 th January 2025	The case is heard & concluded.

OBSERVATION OF THE BOARD:

7. The matter was heard ex-parte against the Complainant as he failed to appear before the Board despite being served due notice. The records indicate that the notice issued to the Complainant was refused to accept by him. The Respondent, however, appeared before the Board through virtual mode and presented his submissions regarding the complaint filed by Shri Ambuj Sharma.
8. Upon examining the records, it is observed that the Complainant, Shri Ambuj Sharma, is neither a Director nor an officer of the company in question. The Directors of the company, as stated by the Respondent were Ms. Priyanka Bhargava and Ms. Meena Sharma. Furthermore, the Board observed that the authorization granting Shri Ambuj Sharma the right to file the complaint in this matter on behalf of the M/s Bensfurt Internet Private Limited is only signed by one of the Directors namely Ms. Priyanka Bhargava without submitting the minutes of the Board meeting held on 07th September 2020. The Board also noted that the complaint was filed in the personal capacity of the Complainant without any evidence of his locus standi in the matter.
9. The Respondent provided an explanation regarding the delay in issuing the No Objection Certificate (NOC), citing non-payment of his audit fees amounting to Rs. 11,800/- as the reason. He submitted that he had followed up with multiple emails and issued the NOC after the outstanding fees were paid. The Respondent further clarified that the matter pertained to professional dealings between two Chartered Accountants, with no involvement or direct impact on the Complainant.
10. In view of the Board, the Complainant does not qualify as an affected or aggrieved party in this matter, as the issue pertains solely to the relationship between the Respondent and the new auditor. Consequently, Shri Ambuj Sharma has no locus standi to file the present complaint against the Respondent.
11. Based on the above observations and lack of substantive evidence supporting the allegations, the Board is of the opinion that the Respondent is Not Guilty of the charge levelled against him.

CONCLUSION:

12. Thus, in conclusion, in the considered opinion of the Board the Respondent is **Not Guilty** of Other Misconduct falling within the meaning of Item (2) of Part-IV of First

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PR/291/2020/DD/288/2020/BOD/655/2022

Schedule to the Chartered Accountants Act, 1949. 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**

Sd/-

**CA. Priti Savla
Member**

Date: 10-02-2025

प्रमाणित सत्य प्रतिलिपि / Certified true copy

सीए अंशुल कुमार / CA. Anshul Kumar
सहायक निदेशक / Assistant Director
अनुशासनात्मक निदेशालय / Disciplinary Directorate
भारतीय चार्टर्ड अकाउंटन्ट्स संस्थान
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