BOARD OF DISCIPLINE

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

FINDINGS OF THE BOARD OF DISCIPLINE 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

FILE No: PR/198/2023/DD/244/2023/BOD/856/2026

CORAM:(Present in Person)

CA. Babu Abraham Kallivayalil, Presiding Officer
Dolly Chakrabarty, Government Nominee
CA. Pankaj Shah, Member

IN THE MATTER OF:

SHRI MAYANK JAIN
603, Vinsha Towers, Rajnagar
NAGPUR..Complainant

Versus

CA. SHAILENDRA KUMAR MISHRA (M. No. 517253)
Flat No – 1402, Wing A
Yorkshire Mahagun Meadow
Sector-150, Gautam Budh Nagar
NOIDA ....Respondent

Date of Final Hearing	:	21st May 2026
Place of Final Hearing	:	ICAI Bhawan, New Delhi
Date of Pronouncement of Judgment	:	27th July 2026

PARTIES PRESENT:

Complainant	:	Shri Mayank Jain (Through VC)
Respondent	:	CA. Shailendra Kumar Mishra (In Person)

FINDINGS:

BACKGROUND OF THE CASE:

1. The present case arises out of a business relationship between the Complainant, who was a first-time entrepreneur intending to establish a company in Singapore, and the Respondent along with M/s ASC (S) Consulting PTE. LTD. The Complainant has stated that he engaged the services of the Respondent based on representations that the Respondent and his firm possessed expertise in assisting clients with incorporation of companies in foreign jurisdictions, particularly

Singapore, and in providing ongoing support relating to accounting, taxation, and regulatory compliance matters in both India and Singapore.

2. Relying upon the aforesaid representations, the Complainant engaged the services of the Respondent for a period of one year, commencing from September 2018 and ending in August 2019. It is alleged that the Complainant paid professional fees aggregating to SGD 4,550 and, in addition, deposited a sum of SGD 2,000 on 11 September 2018. According to the Complainant, the said amount was represented as a refundable deposit, returnable upon completion of one year or earlier termination of the engagement, whichever occurred first.

3. The Complainant has alleged that the services rendered by the Respondent did not meet the standards that had been represented at the time of engagement. In particular, the Complainant has referred to alleged deficiencies in bookkeeping, maintenance of accounts, and provision of taxation-related advice and support. Owing to these alleged shortcomings, the Complainant states that he discontinued the engagement in November 2019.

4. Following termination of the engagement, the Complainant sought refund of the deposit amount of SGD 2,000. It is alleged that despite repeated follow-ups through emails, telephone calls, and WhatsApp messages, the amount was not refunded. The Complainant has further stated that he made numerous attempts to contact the Respondent and other persons associated with the firm, including through its landline number, but was unable to obtain a satisfactory response. According to the Complainant, the calls either remained unanswered, were disconnected, or were met with explanations that the concerned person was unavailable.

5. The Complainant has further alleged that the Respondent's firm misrepresented the extent of its overseas presence by conveying that it operated through multiple offices outside India, including in Singapore, whereas, according to the Complainant, a substantial part of its operations was being carried on from India.

CHARGES ALLEGED:

6. The Complainant has alleged that the Respondent, while acting in his professional capacity, failed to provide the quality and scope of services that had been represented at the time of engagement. According to the Complainant, the deficiencies related to services concerning company incorporation, bookkeeping, accounting, and taxation matters in India and Singapore.

7. It has been alleged that the Respondent collected a sum of SGD 2,000 as a refundable deposit/security amount in connection with the engagement and failed to refund the same after termination of services. The Complainant has stated that despite repeated requests, both written and oral, the amount remained unpaid.

8. The Complainant has further alleged that the Respondent did not adequately respond to repeated communications made through telephone calls, emails, and electronic messages. According to the Complainant, such conduct reflected a lack

of professional responsiveness and was inconsistent with the standards expected of a Chartered Accountant.

BRIEF OF PROCEEDINGS HELD:

9. The details of the hearing fixed and held in the instant matter are given as below:

S. No.	Date of Hearing	Status of hearing
1.	25th April 2026	Part heard and adjourned.
2.	21st May 2026	Heard and concluded. Judgement Reserved.

SUBMISSION OF THE PARTIES:

10. In his Written Submission dated 27th February 2026, the Respondent denied the findings contained in the Prima Facie Opinion and maintained that the complaint was essentially a commercial dispute rather than a disciplinary matter. According to him, the dispute arose between the Complainant's Singapore Company and ASC (S) Consulting Pte. Ltd., a Singapore-based entity, and therefore related to contractual obligations between two corporate bodies. He argued that he was involved only in his capacity as a director of ASC (S) Consulting Pte. Ltd. and not as a practising Chartered Accountant rendering professional services in India. On this basis, he contended that the matter fell outside the disciplinary jurisdiction of ICAI and if any grievance existed, it should have been pursued before the appropriate civil forum in Singapore.

11. Regarding the disputed SGD 2,000 security deposit, the Respondent challenged the Complainant's assertion that the amount was automatically refundable upon completion of one year or termination of services. He stated that no document specifically provided for such unconditional refund. According to him, the deposit was refundable only after termination of services and after adjustment of any outstanding dues. He explained that the services provided, including nominee director services, company secretary services, and the provision of a registered office, were annual services that were subject to renewal. Since the Complainant continued to avail services even after the expiry of the original term, particularly in October 2019 when assistance was sought regarding the resignation of a Director, the Respondent argued that the business relationship had effectively continued. Consequently, renewal charges became payable and the deposit was legitimately adjusted against those dues. He further rejected the allegation that invoices had been fabricated, maintaining that they were genuine business records created in the ordinary course of operations.

12. The Respondent also attempted to explain the absence of certain communications and records. He stated that he had subsequently resigned from the Singapore Company and no longer had access to its records. He further claimed that some emails were no longer available because older correspondence had been automatically deleted due to technical limitations of the email server. He emphasized that all financial transactions including the receipt and adjustment of deposits, were corporate actions undertaken by the company itself and not by him personally. Therefore, he argued that personal liability could not be imposed upon him for the non-refund of the deposit. In conclusion, the Respondent maintained

that there was no evidence of fraud, dishonesty, moral turpitude or any conduct that could amount to "Other Misconduct" under the Chartered Accountants Act and accordingly sought dismissal of the complaint.

13. The Complainant, through his rejoinder dated 26th March 2026, strongly disputed the Respondent's defence. He argued that the Respondent was attempting to reduce a serious professional ethics issue into a simple commercial disagreement. According to the Complainant, a Chartered Accountant remains bound by professional standards and ethical obligations irrespective of whether he acts as an auditor, consultant, director or businessman. Therefore, merely because the transactions were carried out through a Singapore entity did not insulate the Respondent from disciplinary scrutiny. The Complainant contended that if a Chartered Accountant acts dishonestly or in a manner that brings disrepute to the profession, such conduct can still amount to "Other Misconduct" under the Chartered Accountants Act.

14. On the issue of the security deposit, the Complainant argued that the Respondent's position was inconsistent and unsupported by evidence. He emphasized that there was no written agreement, engagement letter, or contractual clause authorizing the retention or adjustment of the deposit. In his view, the absence of proper documentation itself reflected a serious professional lapse. The Complainant further challenged the authenticity of certain invoices relied upon by the Respondent, alleging that there were inconsistencies between invoices issued for the same period and that these discrepancies suggested that documents had been created after the dispute arose in an attempt to justify the withholding of the deposit. The explanation regarding deleted emails was also criticized as implausible and professionally irresponsible, particularly because the dispute had already been ongoing and relevant records ought to have been preserved.

15. The Complainant also rejected the argument that a request relating to the resignation of a nominee director constituted an implied renewal of services. According to him, the services had already been terminated because of dissatisfaction with the quality of work, and no consent had been given for any renewal or additional charges. He therefore characterized the Respondent's adjustment of the deposit as an unauthorized appropriation of funds and accused him of misleading the disciplinary authorities. Based on these allegations, the Complainant sought disciplinary action, compensation, and other appropriate consequences against the Respondent.

16. The dispute intensified further through the Complainant's email submission dated 14 April 2026. In this submission, the Complainant focused particularly on what he described as the Respondent's admission of a discrepancy in invoice dates. According to the Complainant, this was not a minor clerical error but an indication that the invoices had been fabricated retrospectively to justify retention of the security deposit. He argued that presenting such documents before a disciplinary authority amounted to the submission of false evidence. Relying on bank records and WhatsApp communications, he asserted that the payment was always understood to be a refundable security deposit and that the Respondent's later attempt to adjust it against alleged dues was dishonest. The Complainant also reiterated that the jurisdictional argument was misplaced because disciplinary

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proceedings concern the conduct of the individual Chartered Accountant, irrespective of where the underlying transactions occurred. He further alleged professional negligence and suppression of evidence, particularly regarding the disappearance of email records, and sought severe disciplinary penalties including removal from membership, substantial fines, refund of the deposit with interest, and compensation.

17. In his final detailed submission dated 01st May 2026, the Complainant expanded upon these allegations and expressly supported the findings recorded in the Prima Facie Opinion. He argued that the Respondent's conduct clearly amounted to "Other Misconduct" because it reflected dishonesty, lack of integrity, and behaviour inconsistent with the standards expected from a Chartered Accountant. He contended that the Respondent had repeatedly changed his explanation for retaining the deposit. Initially, the Respondent allegedly relied on an unpaid invoice as justification, but when questioned regarding proof of communication of that invoice, he shifted to a new explanation that services had automatically renewed because no formal termination email had been issued. The Complainant maintained that this changing stand undermined the credibility of the Respondent's defence.

18. The Complainant further attempted to demonstrate that the Respondent's services had already been discontinued by producing records showing that a new service provider had been engaged from August 2019 onwards. According to him, this clearly disproved the allegation of automatic renewal. He also argued that the Respondent had no legal right to exercise a lien over the security deposit because no confirmed debt had been established. In the absence of any communicated demand, invoice reminders, or recovery efforts, the Complainant questioned why the Respondent would suddenly rely upon an allegedly unpaid invoice after more than fifteen months. This, according to the Complainant, strongly suggested that the invoice was created subsequently as a justification for withholding the deposit.

19. The Complainant additionally alleged systematic manipulation of records, pointing to differences in invoice formats, addresses, and banking details between the disputed documents and earlier genuine invoices. He argued that these discrepancies indicated that the invoices relied upon by the Respondent were not authentic. Ultimately, the Complainant endorsed the Prima Facie Opinion's observations that the Respondent's explanations appeared to be an ex post facto justification for retaining money that should have been refunded. He therefore urged the disciplinary authorities to conclude that the Respondent had acted dishonestly, misused corporate structures, improperly retained client funds, and engaged in conduct unbecoming of a Chartered Accountant, thereby warranting disciplinary action under the Chartered Accountants Act.

<u>OBSERVATIONS OF THE BOARD:</u>

20. The Board after carefully considering the allegations made in the Complaint, the written and oral submissions of the Complainant and the Respondent and the submissions made during hearing, a preliminary issue arose regarding the maintainability of the present complaint and the authority of the Complainant to institute the same.

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21. The Board noted that the complaint has been filed in Form I by the Complainant in his individual capacity. However, during the hearing, the Complainant unequivocally stated that the alleged deficient services were rendered to M/s Samyra Impex Pte. Ltd. and that the consideration for such services was paid by the said company. The Complainant further admitted that the contractual relationship was between M/s Samyra Impex Pte. Ltd. and ASC (S) Consulting Pte. Ltd., and not between himself personally and the Respondent.

22. When questioned regarding his position in the company, the Complainant stated that he is a 100% shareholder of M/s Samyra Impex Pte. Ltd. but is not a director of the company. The Complainant was also afforded an opportunity to place all relevant documents on record; however, no Board Resolution, letter of authority, power of attorney or any other document authorising him to initiate and pursue the present proceedings on behalf of the company was produced.

23. Further it is to be noted that the provider of service is also a company and not the respondent therefore the respondent in his individual capacity cannot be made a party of complaint without initiating any action against the company i.e. M/s ASC (S) Consulting PTE. LTD. On specific question to the complainant as to any complaint or action has been preferred against the company, he has categorically denied the same during the course of hearing.

24. The Board observes that a company incorporated under law is a separate and distinct legal entity, independent of its shareholders. Any right arising from a contract entered by the company itself belongs to the company only and not to its shareholders individually. Consequently, where a grievance pertains to services rendered to a company or monies paid by a company, the complaint must ordinarily be instituted by the company through a duly authorised representative acting pursuant to a valid Board Resolution or other lawful authorisation.

25. In the present case, the Complainant had chosen to file formal complaint before the Directorate in Form I in his personal capacity despite the admitted position that the transaction in question was undertaken by M/s Samyra Impex Pte. Ltd. The alleged cause of action, if any, therefore, belongs to the company and not to the Complainant individually. In the absence of any material demonstrating that the Complainant was authorised by the company to represent it, the filing of the complaint by him in his individual name cannot be treated as a complaint instituted by the company. The defect is not merely procedural but goes to the very root of the Complainant's locus standi, authority and capacity to maintain the proceedings.

26. The fact that the Complainant holds 100% shareholding in the company does not alter the legal position. Shareholding, irrespective of its extent, does not merge the identity of the shareholder with that of the company, nor does it automatically confer authority to initiate legal proceedings on behalf of the company. Such authority must flow from a valid corporate decision evidenced through a Board Resolution or other legally recognised authorisation. Admittedly, no such authorisation has been placed on record.

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27. Accordingly, the Board finds that the Complainant has failed to establish his requisite authority to represent M/s Samyra Impex Pte. Ltd. or to prosecute claims arising from transactions entered by the company. Since the complaint has been filed by an individual in respect of an alleged grievance belonging to a separate legal entity, namely M/s Samyra Impex Pte. Ltd., and since no Board Resolution or authorisation has been produced, the complaint is held to be not maintainable.

28. In view of the foregoing findings, this Board is of the considered opinion that the present complaint is not maintainable for want of proper authorization and also not being the provider of deficient services which is the cause of the complainant. Since the complaint itself is not maintainable, it is neither necessary nor appropriate for the Board to examine or adjudicate upon the merits of the allegations levelled against the Respondent. Accordingly, without expressing any opinion on the substantive issues involved in the dispute, the complaint is hereby dismissed as not maintainable.

29. Accordingly, the Board holds that the charge of other misconduct against the Respondent has not been proved. The Respondent is, therefore, held **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.

CONCLUSION:

30. 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 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.

31. Ordered accordingly. The case stands disposed of.

Sd/-
CA. Babu Abraham Kallivayalil
Presiding Officer

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

Sd/-
CA. Pankaj Shah
Member

सत्यापित होने के लिए प्रमाणित / Certified to be True Copy
निशा शर्मा / Nisha Sharma
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
भारतीय सनदी लेखाकार संस्थान
The Institute of Chartered Accountants of India
आई.सी.ए.आई. भवन, सी–1, सेक्टर–1, नोएडा–201301 (उ.प्र.)
ICAI Bhawan, C-1, Sector-1, Noida-201301 (U.P.)