CONFIDENTIAL
PR/372/2020/DD/361/2020/BOD/768/2024

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/372/2020/DD/361/2020/BOD/768/2024

CORAM: (IN PERSON)

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

IN THE MATTER OF:

CA. MANOJ AGRAWAL (M. No. 076918)
328/208, Purshottam Kunj, Lukerganj
Fateh Chand Complex 61/51
Mahajani Tola,Next to Justice Jayant Banerjee
PRAYAGRAJ ....Complainant

Versus

CA. VIPUL VARSHNI (M. No. 077931)
7/3, Stanely Road, Or Old 9/1 Edmonstone Road
Civil Lines
PRAYAGRAJ...Respondent

Date of Final Hearing	:	20th May 2026
Place of Final Hearing	:	ICAI Bhawan, New Delhi
Date of Pronouncement of Judgment	:	27th July 2026

PARTIES PRESENT:

Respondent	:	CA. Vipul Varshni (In Person)
Counsel for Respondent	:	CA. Sumit Kansal, Advocate (In Person)
Complainant	:	CA. Manoj Agrawal (Through VC)
Counsel for Complainant	:	CA. Ashish Agarwal (Through VC)

FINDINGS:

BACKGROUND OF THE CASE:

1. The Complainant contends that he had been conducting the VAT Audit of M/s Jai Durga Spring House (hereinafter referred to as auditee) continuously from the inception of the

VAT audit requirement up to the financial year ended 31st March 2016. According to the Complainant, despite his prior association as the auditor, the Respondent accepted and conducted the VAT Audit of the same auditee for the financial year 2016–17 without first obtaining a No Objection Certificate (NOC) or communicating with him, as required under Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

2. In support of this allegation, the Complainant has relied upon VAT Audit Reports dated 20th November 2017 and 31st October 2018 pertaining to the periods from 01st April 2016 to 31st March 2017 and from 01st April 2017 to 30th June 2017 respectively. These documents were allegedly obtained by the Complainant through the Right to Information (RTI) Act. The Complainant asserts that both audit reports were signed by the Respondent, thereby establishing that the Respondent had undertaken the audit assignments of the above auditee. It is further stated that copies of these audit reports were forwarded by the Complainant to the Respondent under a covering letter dated 25th July 2020. The Complainant alleges that the Respondent did not make any prior communication with him before accepting the audit engagement, which, according to the Complainant, constitutes professional misconduct under Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

3. Additionally, the Complainant submits that the Respondent had conducted the Tax Audit of the auditee for the financial year 2016–17. However, the Respondent subsequently carried out the Tax Audit of the same auditee for the financial year 2017–18 without establishing the mandatory communication with the previous auditor. The Complainant therefore alleges that the Respondent failed to comply with the professional requirements prescribed under Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949, both in relation to the VAT Audit and the Tax Audit assignments.

CHARGES ALLEGED:

4. It is alleged that the Respondent had conducted the VAT Audit of the Auditee for the financial year 2016-17 in violation of Clause 8 of the Part I of the First Schedule to Chartered Accountants Act, 1949.

5. It is alleged that the Respondent had conducted the Tax Audit of the Auditee for the financial year 2017-18 in violation of Clause 8 Part I of First Schedule to the Chartered Accountants Act, 1949

BRIEF OF PROCEEDINGS HELD:

6. 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.	01st September 2025	Adjourned at the request of the Respondent.
2.	16th January 2026	Adjourned at the request of the Respondent.
3.	05th February 2026	Adjourned at the request of the Respondent.
4.	20th May 2026	Matter heard and concluded. Findings Reserved.

SUBMISSION OF THE RESPONDENT:

7. The Respondent denied all allegations of professional misconduct made against him under Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949. The

Respondent stated that he has been a practicing Chartered Accountant for more than 26 years and has maintained an unblemished professional record throughout his career. According to him, the allegations made by the Complainant are baseless and unsupported by credible evidence. He further contended that the Prima Facie Opinion formed by the Director (Discipline) suffers from factual inaccuracies, legal infirmities and procedural defects and therefore does not present a fair assessment of the matter.

8. The Respondent also raised a preliminary objection regarding the maintainability of the complaint. He submitted that although the Complainant claimed to represent the firm M/s Ramesh C. Agrawal & Co., the complaint was filed by him in his individual capacity and not on behalf of the firm. According to the Respondent, no resolution or authorization from the firm was produced as required under Rule 3(4) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. On this basis, he argued that the complaint is procedurally defective and ought to be dismissed at the threshold.

9. Further, the Respondent alleged that the complaint was motivated by professional rivalry and personal animosity rather than any genuine grievance. He stated that he was appointed by the auditee, M/s Jai Durga Spring House, through a valid and independent decision of the client. According to him, the client had become dissatisfied with the services rendered by the Complainant particularly on account of allegedly inflated tax liabilities and unprofessional conduct and therefore chose to engage him as the new auditor.

10. Regarding the VAT Audit for the financial year 2016–17, the Respondent maintained his earlier stand that the signature appearing on the VAT Audit Report was not his genuine signature and had been forged. He submitted that upon becoming aware of the issue, he took appropriate steps by communicating with the auditee as well as the Commercial Tax Department to bring the matter to their attention. He therefore denied having knowingly undertaken or signed the VAT Audit assignment in question.

11. In relation to the Tax Audit for the financial year 2017–18, the Respondent submitted that he had complied with the requirement of communicating with the previous auditor before accepting the assignment. He stated that an email dated 23rd October 2018 was sent to the Complainant prior to his acceptance of the audit engagement on 25th October 2018. According to the Respondent, this communication fulfilled the requirement of communication "in writing" as envisaged under Clause (8), particularly considering the legal recognition granted to electronic communications under the Information Technology Act, 2000.

12. The Respondent further argued that the essential ingredients necessary to establish professional misconduct under Clause (8) have not been proved by the Complainant. He contended that there is no conclusive evidence demonstrating that the Complainant was the previous auditor whose consent or communication was required, nor has any loss, prejudice or professional harm been shown to have resulted from his actions. In these circumstances, the Respondent maintained that no case of professional misconduct is made out against him.

13. In conclusion, the Respondent asserted that the complaint is a misuse of the disciplinary process and has been filed with the sole intention of harassing him and damaging his professional reputation. He therefore requested that the allegations be rejected and the complaint be dismissed in its entirety.

OBSERVATIONS OF THE BOARD:

14. The Board after carefully considering the allegations made in the Complaint, the Prima Facie Opinion, the written and oral submissions of the Complainant and the Respondent and the documents available on record observed that the allegation against the Respondent pertains to an alleged violation of Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 on the ground that the Respondent accepted audit assignments of M/s Jai Durga Spring House without first communicating with the previous auditor i.e. the Complainant. The dispute essentially relates to the VAT Audit for the financial year 2016-17 and the Tax Audit for the financial year 2017-18.

15. The Board notes that there is no dispute regarding the Tax Audit assignment for the financial year 2017-18. The Respondent has consistently maintained that prior communication was made to the Complainant through an email dated 23rd October 2018 before acceptance of the said assignment. During the hearing, the Respondent relied upon the email placed on record and contended that the same was sent to the email addresscamanojagrawal30@gmail.com admittedly belonging to the Complainant. Although the Complainant denied having received the email, he acknowledged that the email address appearing in the communication was indeed his own. The Board further notes that the Respondent produced documentary evidence in support of the said communication and was directed to furnish further proof, including an affidavit regarding transmission of the email. In the facts and circumstances of the case and considering the prevalence and legal recognition of electronic communication, the Board is not inclined to accept that there was any deliberate failure on the part of the Respondent to communicate with the previous auditor before accepting the said assignment.

16. Regarding the VAT Audit for the financial year 2016-17, the Board observes that the foundation of the allegation is the assertion that the Respondent conducted and signed the VAT Audit Report without obtaining a No Objection Certificate from the Complainant. However, the Respondent has consistently disputed having undertaken or signed the said VAT Audit and has alleged that the signature appearing on the audit report was not his genuine signature. The Board notes that apart from placing reliance on the audit report, no independent evidence has been brought on record to conclusively establish that the Respondent had in fact accepted and conducted the VAT Audit assignment. Furthermore, the Complainant has not produced any appointment letter, engagement letter or other documentary evidence demonstrating that he was the appointed auditor for the relevant period whose prior communication was mandatorily required under Clause (8).

17. The Board also notes that despite opportunities, no corroborative evidence has been produced by the Complainant or the auditee to conclusively establish the circumstances under which the alleged VAT Audit was conducted. The evidentiary record, therefore, falls short of establishing the essential ingredients of professional misconduct under Clause (8). It is a settled principle that findings of professional misconduct must be based on cogent and reliable evidence.

18. The Board further observes that there is no allegation or evidence of any pending professional dues payable to the Complainant by the auditee. During the hearing, the Complainant expressly admitted that no audit fees were outstanding. While non-payment of fees is not a prerequisite for invoking Clause (8), the absence of any dispute regarding professional dues is a relevant surrounding circumstance while appreciating the conduct of the parties.

19. Having regard to the totality of facts and circumstances, the Board is of the considered view that the evidence available on record is insufficient to establish that the Respondent accepted the audit assignments in contravention of Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949. The benefit of doubt, therefore, must necessarily accrue to the Respondent.

20. Pursuant to the directions of the Board during the final hearing, the Respondent furnished the relevant email communication dated 23rd October 2018 relied upon by him to establish compliance with the requirement of prior communication under Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949. The copy of email dated 23rd October 2018, was duly forwarded to the office on 20th May 2026 evidencing its transmission to the Complainant's admitted email address camanojagrawal30@gmail.com. The subsequent production of the email lent support to the Respondent's contention that reasonable efforts had been made to communicate with the previous auditor in accordance with the prescribed professional requirements.

21. Accordingly, the Board holds that the charge of professional misconduct against the Respondent has not been proved. The Respondent is, therefore, held **Not Guilty** of professional misconduct falling within the meaning of Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

CONCLUSION:

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

23. 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
Charan Singh
चरण सिंह / Charan Singh
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
भारतीय सनदी लेखाकार संस्थान
The Institute of Chartered Accountants of India
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