

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
Ms. Dolly Chakrabarty, (IAAS, Retd.), Government Nominee
CA. Priti Savla, Member

IN THE MATTER OF:**CA. Jayesh Vasantlal Shah (M. No. 041495)**301, Sambhavnath Apartment, 3rd Floor

Road No. 7, Daulat Nagar, Borivali East

Mumbai..... Complainant**Versus****CA. Jaleshwar Singh (M. No. 042023)****Partner, M/s J Singh & Associates (FRN. 110266W)**505/506/507, Hub town Viva, 5th Floor

Western Express Highways, Shankar wadi, Andheri East

Mumbai..... RespondentDate of Final hearing : 26th June 2024

Place of Final hearing : ICAI Bhawan, Mumbai

PARTIES PRESENT (IN PERSON):

Complainant : CA. Jayesh Vasantlal Shah

Respondent : CA. Jaleswar Singh

FINDINGS:**BACKGROUND OF CASE:**

1. In the instant case, it is stated that the Complainant was one of the partners in Respondent's CA Firm namely M/s J Singh & Associates (hereinafter referred to as "**Firm**"), whereas the Respondent was the Managing Partner with 80% profit sharing in the subject firm. It is alleged that the Respondent has forged the signature of the Complainant in seven Forensic Audit Reports which includes Forensic Audit Report of below mentioned two Companies being allotted by Canara Bank:

- i. M/s SRS Real Infrastructure Ltd.
- ii. M/s SRS Real Estate Ltd

The matter in respect of the aforesaid two Companies has also been referred to CBI by the Hon'ble Delhi High Court in a case of recovery against these two Companies filed by the Canara Bank.

CHARGES ALLEGED:

2. The Complainant alleged that the Respondent has committed forgery of the Complainant's signature on two Forensic Audit Reports of the Company namely M/s SRS Real Infrastructure Ltd and M/s SRS Real Estate Ltd and has failed to remit the Complainant's share of profit and conveyance expenses. Further, it is alleged that the Respondent has not accepted the resignation of the Complainant besides that the Respondent has also adopted the illegitimate means for getting the work assignments from the Nationalized Banks, Government Companies, and various other Companies.

The Board of Discipline while considering the Prima Facie Opinion formed by the Director (Discipline) was of the view that the Complainant has made serious allegations about malpractice being adopted by the Respondent/Respondent Firm. The Board also noted that the Respondent of the instant complaint has also filed a Complaint against the Complainant on 12th April 2021 bearing case file no. PR / 88 / 2021 / DD/125/2021 which is being dealt with separately. Therefore, looking into the nature of allegations, the Board was of the prima facie view that the Respondent can not be exonerated at this stage and the matter needs to be examined in detail. Accordingly, the Board initially did not agree with the Prima Facie Opinion of the Director (Discipline) that 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 and decided to proceed under Chapter IV of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

BRIEF OF PROCEEDINGS HELD:

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

Date of Hearing	Status of hearing
26 th June 2024	Matter heard and concluded.

SUBMISSIONS OF THE PARTIES:**RESPONDENT:**

4. The Respondent submitted that the Complainant was working as a full-time partner in the subject Firm and drawing his monthly remuneration as a full-time partner and was also signing the Reports and Certificates including but not limited to Forensic Audit and Concurrent Audit of Banks, Internal Audit Reports of various PSUs along with Statutory Audit Reports of Private Sector Companies for and on behalf of the Firm as a partner. It is submitted that all the Seven Forensic Audit Reports listed by the Complainant has been signed by the Complainant himself and handed over to office admin for dispatch to respective banks. The office copy of said reports were kept by the Complainant under lock and keys inside his cabin for which an affidavit of an office admin namely Mr. Rajesh Kumar has been placed on record.
5. Further it is submitted that the Canara Bank has filed an FIR with CBI (Bank Securities and fraud Branch) relying on the report of said Firm since while doing the forensic audit of aforesaid two Companies, the said Firm has arrived at a conclusion that the borrowers have done diversion of funds and willful default in discharging their obligations to lenders and it is due to placing reliance on the report of the Firm that the lead Canara Bank has filed FIR and named the said Firm as witness of the case.

6. It is also submitted that both the aforesaid Forensic Audit Reports were signed by the Complainant on behalf of the Firm and executed by another partner namely Mr. V.V. Kandaswamy and a notice dated 19th October 2020 U/s 160 and 161 of Cr.P.C. was issued to both the partners by Mr. Tulsidas, Inspector of Police, CBI to join the investigation as witnesses. Both the partners appeared before the Investigation Officer and recorded their respective statements after which the Complainant vide his e-mail dated 07th November 2020 conveyed the minutes of the statements which he has recorded with CBI on 04th November 2020. From the said minutes, though the Complainant had stated that he has not done the Forensic Audit of the said two Companies, however, had not denied signing of the said Reports.
7. The Respondent also submitted that the allegation of forgery levelled by the Complainant against him is of criminal nature which is not the subject matter of the jurisdiction of ICAI. Additionally, Respondent submitted that he or his Firm has nothing due to be paid to the Complainant on account of profit sharing or conveyance etc. as claimed by the Complainant. Besides, the Respondent submitted that he denies that he has not allowed the Complainant from resigning from the partnership since he is continuing as per his own free will just to settle the advance and while resigning on 29th October 2020, he has given health reason of attaining 60 years of age and other reasons for the same.
8. The Respondent denied that his firm is carrying on any malpractice as alleged by the Complainant. The said Firm has never been blacklisted by any of the regulatory bodies and that the Firm has not done shabby Forensic Audit of M/s Nakoda Limited and the same was done on behalf of consortium of lenders at the instruction of CBI, Mumbai. Furthermore, the Respondent submitted that none of the allegation and charges levelled against him, or his firm are substantiated by the Complainant with any documentary evidence or otherwise. Respondent also submitted that on behalf of J Singh & Associates, a complaint against Mr. Jayesh V. Shah for his act of criminal blackmail, illegal and criminal extortion of money, stealing of documents and papers from office, not handing over documents and papers of the clients kept under his illegal custody and not handing over charge of work post his resignation as partner of the firm has already been filed. It is also stated that Mr. Jayesh V. Shah, the Complainant herein, after his resignation has not paid the advance taken/withdrawn during his association as partner from his partner current account. Mr. Jayesh V Shah after his resignation also sent emails to the clients of the Firm making demeaning allegation just to damage Goodwill and reputation of the said Firm.

COMPLAINANT:

9. The Complainant submitted that the Respondent is a habitual offender of professional misconduct and as per his knowledge, two Complaints have already been filed against him in the past with ICAI and the said Firm has got most of the works from the Public Sector Banks and Government Companies which are received through the tenders and such works are being done by the article clerks and the reports being signed by Mr. Chaviraj Joshi till 31.12.2018.
10. The Complainant further submitted that an amount of Rs. 10,48,490.85 as on 31st March 2019 is receivable by him from the Firm which he had shown in the Income Tax Return for the year ended 31st March 2019, however the Respondent has removed all the receivable entries from the ledger account of the Firm and is demanding an amount of Rupees two lakhs towards the extra remuneration paid to him. The Respondent has also failed to return his DSC which he had kept with him. He believed that the Respondent would misuse his DSC. It is further stated by him that the Respondent is trying to stop him to give his statement to the Investigating Officer and got furious when he told to Respondent that he will never tell a lie to the Investigating Officer and will also tell him that he did not conduct the Forensic Audit.

11. The Complainant also submitted that after resigned from his post one of the article trainees of the said Firm has told him that there are several other Forensic Audit Reports on which his signature was forged on the instruction of the Respondent. Further the article trainee has only gave him the PDF soft copy of Forensic Audit report of M/s Pooja Soya Industries Ltd on which his signature was forged by Mr. Rajesh Singh the office boy or other office staff on the direction of the Respondent.

OBSERVATIONS OF THE BOARD:

12. The Board noted that the Complainant has brought on record a copy of Forensic Audit Report of M/s Pooja Soya industries Ltd, on perusal of which, it is noticed that the signature of the Complainant which is appearing on the said Forensics Audit Report apparently matches with the signature as appearing in Form-I, filed by the Complainant. It is also noted that the Complainant has brought on record a copy of letter dated 07th May 2021, marked to Deputy General Manager, State Bank of India, Stressed Assets Management (SAM) Branch, Bhopal, M.P.-462011, wherein the Complainant has requested the original copy of Forensic Audit Reports of four Companies namely "M/s My Car Bhopal P Ltd, M/s My Equipment P Ltd., M/s Excel Vehicles P Ltd and M/s Pooja Soya Industries Ltd" conducted by the Firm, along-with the reply of the SBI vide its letter dated 28th May 2021, and another copy of letter dated 07th June 2021, to State Bank of India, Stressed Assets Management (SAM) Branch-II, Hyderabad, Telangana-500027, wherein the Complainant has further requested the original copy of Forensic Audit Report of M/s Anrak Aluminum Limited, along-with the reply of SBI vide its letter dated 11th June 2021.
13. The Board further observed that the said bank in response stated that the signatures on the aforesaid Forensic Audit Reports are that of the Complainant, however, they have also stated that since they do not have KYC data of the partners of the said Firm, they cannot verify the authenticity / genuineness of every employee and partners of empaneled Firm. The Bank has also not provided the copy of Forensic Audit Reports as was desired by the Complainant stating that the said reports are part of Bank records, and the branch cannot part with the original report. Thus, it is seen that though the Complainant has alleged his signature was forged by the Respondent, however, he has not been able to substantiate his allegation with the relevant documentary evidence.
14. As regards other allegations, the Board observed that the Complainant failed to bring on record any substantive documentary evidence in support of such allegations except a copy of an email dated 09th December 2020 wherein he has requested Respondent to provide him the information pertaining to his share in profit, copy of partnership agreement and his ledger account which does not prove anything. Accordingly, mere contention that the Respondent has not paid his share of profit and conveyance does not stand. Further, the Board observed that the Respondent has brought on record the resignation letter dated 29th October 2020. On perusal of the aforesaid resignation letter, it is seen that though the Complainant has stated about his wish to retire on number of earlier occasions, however, the reason of resignation mentioned by him in the said letter is his age and health deterioration, covid pandemic and heavy traffic towards office. Thus, it is quite clear from the aforesaid resignation letter of the Complainant that the reason for his resignation was not that of forgery on the Forensic Audit Reports or non-payment of his dues by the Respondent as being alleged.
15. Besides above, the Board observed that the Complainant has quoted certain instances of malpractices alleged to have been adopted by the Respondent Firm as under:

- i. Malpractices adopted in getting tender work.

- ii. Taking the assignment of forensic Audit of Canara bank despite it being a statutory Auditor of the said Bank till 30.09.2018.
- iii. Getting work of various flagship Companies from the group like Videocon Industries Ltd, M/s Splendid Metal Products Ltd etc.
- iv. Appointment of partner in the firm only for doing signatures on reports and documents.
- v. Exploitation of various paid Chartered Accountants of the firm by the Respondent.

However, the Board noticed that no substantial evidence has been brought on record by the Complainant apart from his mere contentions in support of these allegations.

16. Additionally, during the hearing of the instant matter, on being asked by the Board as to what the Complainant wants to state in support of his complaint/allegations against the Respondent. The Complainant in response submitted that he does not have anything to say and wish to accept the decision to be taken by the Board of Discipline. The Complainant also submitted that he concurred with the Prima Facie Opinion of the Director (Discipline). In view of the submissions made by the parties besides perusing of the available records, the Board decided to conclude the proceedings of the instant matter while holding the Respondent as 'Not Guilty' in absence of any corroborative evidence.

CONCLUSION:

17. Thus, in conclusion, in absence of any corroborative evidence for any charge against the Respondent, 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.

Sd/-
CA. Rajendra Kumar P
Presiding Officer

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

Sd/-
CA. Priti Savla
Member

Date: 27-08-2024

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
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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