



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PR/38/2021/DD/86/2021/BOD/713/2023]

ORDER UNDER SECTION 21A (3) OF THE CHARTERED ACCOUNTANTS ACT, 1949
READ WITH RULE 15 (1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF
INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT
OF CASES) RULES, 2007

IN THE MATTER OF:

Shri Ajay Bharti

E-184, Greater Kailash Part- 1

New Delhi-110048.....Complainant

Versus

CA. Akshay Mittal (M. No. 549986)

28, Third Floor, D Block

Kalkaji, New Delhi- 110019.....Respondent

[PR/38/2021/DD/86/2021/BOD/713/2023]

MEMBERS PRESENT (THROUGH VIDEO CONFERENCE):

CA. Rajendra Kumar P, Presiding Officer

Ms. Dolly Chakrabarty (IAAS, ret'd.), Government Nominee

Date of hearing and passing of Order: 15th July 2024

1. The Board of Discipline vide its finding dated 30th May 2024 was of the view that CA. Akshay Mittal (M. No. 549986) is **Guilty** of Professional Misconduct falling within the meaning of Clause (11) of Part-I of First Schedule to the Chartered Accountants Act, 1949.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against CA. Akshay Mittal (M. No. 549986) and communication dated 5th July 2024 was addressed to him thereby granting an opportunity of being heard on 15th July 2024 which was exercised by him being present through video conferencing. He confirmed receipt of the findings of the Board.
3. Thus, upon consideration of the facts of the case, the consequent misconduct of CA. Akshay Mittal (M. No. 549986) and keeping in view his representation before it, the Board decided to impose a **fine of Rs.30,000/- (Rs. Thirty Thousand only)** upon him.

Sd/-

CA. Rajendra Kumar P
(Presiding Officer)

प्रतिप्रमाणित होने के लिए प्रमाणित
Certified to be true copy

[Signature]

बिष्वा नाथ तिवारी / Bishwa Nath Tiwari

कार्यकारी अधिकारी / Executive Officer

अवकाशनात्मक निदेशालय / Disciplinary Directorate

इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया

The Institute of Chartered Accountants of India

आर पीएसआई भवन, विद्यास नगर, शाहदरा, दिल्ली-110032

101, P. Block, Vaidya Nagar, Shahdara, Delhi-110032

Sd/-

Ms. Dolly Chakrabarty (IAAS, ret'd.)
(Government Nominee)

Shri Ajay Bharti -Vs- CA. Akshay Mittal (M. No. 549986)

BOARD OF DISCIPLINE

(Constituted U/S 21A of the Chartered Accountants Act 1949)

**FINDINGS UNDER RULE 14 (9) 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 Chakraborty, (I.A.A.S, Retd.), Government Nominee
CA. Priti Savla, Member

IN THE MATTER OF:

Shri Ajay Bharti,
E-184, Greater Kailash Part- 1,
New Delhi- 110048.....Complainant

Versus

CA. Akshay Mittal (M. No. 549986)
28, Third Floor, D Block,
Kalkaji, New Delhi- 110019..... Respondent

Date of Final Hearing : 28th March 2024
Place of Final Hearing : ICAI Bhawan, New Delhi

PARTIES PRESENT:

Adv. Amit Kumar, Counsel for Complainant and CA. Akshay Mittal Respondent along with his Counsel CA. Princy K. Singhal.

FINDINGS:**BRIEF BACKGROUND OF THE CASE:**

1. The Respondent's family is reported to have purchased an under-construction property from the Complainant for which it is alleged that the Respondent claiming his professional qualification has assured Complainant to provide exemption of GST on the purchase consideration. However later he has refused to provide any such GST exemption letter and also refused to pay the GST amount.



2. After thorough investigation by the Director (Discipline) of the instant complaint, the Respondent was held Prima Facie Guilty only in respect of the following allegations by the Director (Discipline) and accordingly the extant proceedings were limited to these two allegations only:

2.1 **Allegation-2:** Engaged in the marketing and advertisement of his firm on several advertisement portals like Just Dial and Indiafilings.com etc. in violation to Clause (6) of Part-I of the First Schedule to the Chartered Accountant Act, 1949.

2.2 **Allegation-4:** Engaged in business other than the profession of Chartered Accountancy since he has issued several invoices to the Complainant for supply of building materials like wall tiles, electrical items etc. thereby violating Clause (11) of Part-I of the First Schedule to the Chartered Accountant Act, 1949.

CHARGES ALLEGED: -

3. **Allegation-2:** Engaged in the marketing and advertisement of his firm on several advertisement portals like Just Dial and Indiafilings.com etc. in violation to Clause (6) of Part-I of the First Schedule to the Chartered Accountant Act, 1949 and **Allegation-4:** Engaged in business other than the profession of Chartered Accountancy since he has issued several invoices to the Complainant for supply of building materials like wall tiles, electrical items etc. thereby violating Clause (11) of Part-I of the First Schedule to the Chartered Accountant Act, 1949.

BRIEF OF THE PROCEEDINGS HELD:

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

S. No	Date of meeting	Status of Hearing
1.	28 th March 2024	Matter is heard and the hearing is concluded.

BRIEF SUBMISSION OF THE RESPONDENT:

5. The Respondent vide his Written Statement dated 22nd March 2024 submitted as under:

5.1 That as regard to the allegation that the Respondent is engaged in the marketing and advertising of his firm on several advertisements' portals like Just Dial and Indiafilings.com, it is submitted that neither any form for listing on such website has been filed nor any fee is paid to such listing by the Respondent. In fact, these portals collect the information from various sources and upload on the portal to build their database and by doing so, their portal becomes famous amongst general public, thus, it may not be considered

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violation of Clause (6) of Part-I of the First Schedule of the Chartered Accountants Act, 1949.

5.2 That as regard to the allegation that the Respondent is engaged in business other than the profession of Chartered Accountancy since he has issued several invoices to the Complainant for supply of building materials like wall tiles, electrical items etc. thereby violating Clause (11) of Part-I of the First Schedule to the Chartered Accountant Act, 1949, it is submitted that despite the Director (Discipline's) prima facie finding of guilt, the Respondent refutes the allegation, citing a letter submitted to the ICAI on 20/04/2021 clarifying that the invoices were of a personal nature, which were billed in his firm's name to the father of the Respondent due to GST requirements for reversal of Input Tax Credit (ITC). Respondent in support of his defence also submitted the copies of original supplier invoices, demonstrating the invoicing's purpose for GST ITC reversal. Emphasizing that the bills were issued solely to his father, for this purpose, the Respondent asserts that, his actions were bona fide and intended for GST compliance.

5.3 The Respondent also acknowledged the possibility of inadvertent errors despite his firm's expertise. Additionally, he drew attention of the Board a Supreme Court judgment (Civil Appeal no. 6924/2012) in support of his defence. The Respondent also submits that a similar complaint against his father, who is a Company Secretary, was decided by the Board of Discipline holding him not guilty of professional misconduct under the Company Secretaries Act, 1980. Copies of relevant orders and complaint are provided for reference. Ultimately, the submission aims to exonerate the Respondent from the alleged misconduct, emphasizing the legal compliance and good faith behind his actions.

OBSERVATION OF THE BOARD:

6. After careful consideration of the documents on record and hearing the arguments addressed by the parties, the Board observed that the essence of the misconduct revolves around the Respondent's engagement in activities beyond the scope of providing professional services, specifically the issuance of invoices for the sale of building materials under the guise of his Chartered Accountant firm, which were utilized for GST credit claims on goods of a personal nature. The Board acknowledges the Respondent's submissions regarding the circumstances surrounding the transactions, including the alleged compulsion to provide GST for materials purchased in personal name and subsequent efforts to rectify the situation through the sale of goods to his father. However, regardless of the reasoning provided, the Board asserts that such actions are inconsistent with the professional standards expected of a Chartered Accountant in practice.
7. The Respondent's engagement in activities unrelated to the professional services, particularly the issuance of invoices for the sale of building materials,



not only brings disrepute to the profession but also contravenes the Ethical Standards and obligations set forth by the Institute. Moreover, the Respondent's admission of Guilt and acknowledgment of the impropriety of his actions further substantiate the Board's findings of Professional Misconduct.

8. In the light of the foregoing, the Board observed that disciplinary measures are required to be imposed upon the Respondent to emphasize the importance of upholding the integrity and Ethical Standards of the Accounting Profession and to ensure that the Respondent is restrained from engaging in similar activities in the future and to adhere strictly to the prescribed code of conduct governing Chartered Accountants.

CONCLUSION

9. Thus, in conclusion in the considered opinion of the Board the Respondent is '**GUILTY**' of Professional Misconduct falling within the meaning of Clause (11) of Part-I of the First Schedule to the Chartered Accountant Act, 1949.

Sd/-

CA. Rajendra Kumar P
Presiding Officer

Sd/-

Dolly Chakrabarty, I.A.A.S, (Retd.)
Government Nominee

Sd/-

CA. Priti Savla
Member

Date: 30-05-2024

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy


बिष्वा नाथ तिवारी / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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