



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

[PR-181/2019-DD/188/2019/BOD/659/2022]

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:

CA. Ashish Chhabra (M.No. 507083)
M/S N. Kumar Chhabra & Co.
Chartered Accountants
House No. 1081, Sector-27-B
Chandigarh-160019.

... Complainant

-Vs

CA. Neha Bansal (M.No. 411989)
M/S Neha Bansal & Co.
Chartered Accountants
8/5A, UG-1, Sector-3,
Rajendra Nagar, Sahibabad
Ghaziabad-2015000.

... Respondent

[PR-181/2019-DD/188/2019/BOD/659/2022]

MEMBERS PRESENT (In person):

CA. Rajendra Kumar P, Presiding Officer
Ms. Dolly Chakrabarty (IAAS, retd.), Government Nominee
CA. Priti Savla, Member

Date of Hearing and passing Order: 11th January 2024

1. The Board of Discipline vide its Findings dated **19th December 2023** was of the view that **CA. Neha Bansal (M.No. 411989)** is GUILTY of Professional Misconduct falling within the meaning of Item (8) of Part I of the 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. Neha Bansal and communication dated 4th January 2024 was addressed to her thereby granting her an opportunity of being heard on 11th January 2024 which was duly delivered at her end. However, she chose not to be present before the Board. Keeping in view the provisions of Rule 15(1) of The Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Board is of the view that she has nothing more to represent before it and accordingly, decided to consider her case for award of punishment.
3. Thus, upon consideration of the facts of the case and the consequent misconduct of **CA. Neha Bansal (M.No. 411989)**, the Board decided to impose a Fine of Rs.25,000/- (Rs. Twenty-Five Thousand only) upon her.

Sd/-

CA. Rajendra Kumar P
(Presiding Officer)

Sd/-

Ms. Dolly Chakrabarty (IAAS, retd.)
(Government Nominee)

Sd/-

CA. Priti Savla
(Member)

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy
नील गुप्ता / Neenu Gupta
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक विभाग / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आनंदविहार भवन, विन्हास नगर, राजधरा, दिल्ली-110032
Anandvihar Bhawan, Vinhas Nagar, Rajdhara, Delhi-110032

[PR-181/2019/DD-188/2019/BOD/659/2022]

CONFIDENTIAL

BOARD OF DISCIPLINE

Constituted under Section 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

File No. : [PR-181/2019/DD-188/2019/BOD/659/2022]

CORAM:

CA. Rajendra Kumar P, Presiding Officer (in person)

Ms. Dolly Chakrabarty (IAAS, retd.), Government Nominee (in person)

CA. Priti Savla, Member (through videoconferencing)

In the matter of:

CA. Ashish Chhabra (M.No. 507083)

M/s N. Kumar Chhabra & Co.

Chartered Accountants

House No. 1081, Sector- 27-B

Chandigarh – 160019.

.....Complainant

Versus

CA. Neha Bansal (M.No.411989)

M/s Neha Bansal & Co.

Chartered Accountants

8/5A, UG-1, Sector-3,

Rajendra Nagar, Sahibabad

Ghaziabad – 2015000.

.....Respondent

DATE OF FINAL HEARING : 4th October, 2023

PARTIES PRESENT:

Complainant : CA. Ashish Chhabra (through videoconferencing)

Respondent : CA. Neha Bansal (in person)

Counsel for the Respondent : Sh. Sumit Kansal, Advocate (in person)

FINDINGS:

BRIEF BACKGROUND OF THE CASE:

1. The Complainant's Firm has been the Statutory Auditor of M/s ROC Foods Limited (hereinafter referred to as the "Company") for the past ten years and completed their term during the year 2017-18. Thereafter, the Respondent firm was appointed as the Statutory Auditor of the Company from the financial year 2018-19 to 2023-24 vide resolution dated 27th September 2018 to hold the Office of auditor from the conclusion



[PR-181/2019/DD-188/2019/BOD/659/2022]

of the AGM for the year 2017-18 till the conclusion of AGM to be held in year 2023 and the Company had filed the ADT-1 on 10th January 2019.

CHARGE ALLEGED:

The Complainant alleged against the Respondent as under:

- 2.1 The Respondent accepted appointment as Statutory Auditor of the Company without first communicating in writing with the Complainant/Complainant firm, being the previous auditor as required under the provision of Item (8) of Part I of First Schedule to the Chartered Accountants Act, 1949 read with Code of Ethics - 2009.
- 2.2 The undisputed professional fee of the Complainant's firm was still pending for payment from the Company for the financial year 2017-18 in full and partially for the financial year 2016-17.

The Board noted that the Director (Discipline) in his Prima Facie Opinion held the Respondent prima facie Guilty of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 in respect of the charge specified at para 2.1 above only and the said view had been accepted by the Board. Accordingly, the conduct of the Respondent was examined in respect of the first charge i.e., Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 only.

BRIEF OF PROCEEDINGS HELD:

3.

Date of Hearing(s)	Status of Hearing(s)
17 th May, 2023	Adjourned at the request of the Complainant.
3 rd July, 2023	Adjourned at the request of the Complainant to provide a final opportunity to him to substantiate his case before the Board.
23 rd August, 2023	Part-Heard and Adjourned with the direction to the Respondent to provide the copy of Financial Statement of M/s ROC Foods Limited audited by the Respondent for the Financial year 2018-19 and

[PR-181/2019/DD-188/2019/BOD/659/2022]

	2019-20.
4 th October, 2023	Heard and concluded.

OBSERVATIONS OF THE BOARD:

- 4.1 As regard the charge alleged that the Respondent accepted appointment as Statutory Auditor of the Company for the FY 2018-19 without first communicating in writing with the Complainant/Complainant firm, being the previous auditor, the Board took into view the requirement of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 read with Code of Ethics – 2009, which provides as under:

"A Chartered Accountant in practice shall be deemed to be guilty of Professional Misconduct, if he-

Accepts a position as auditor previously held by another chartered accountant or a certified auditor who has been issued certificate under the Restricted Certificate Rules, 1932 without first communicating with him in writing."

The Board observed that there are two essential requirements under Item (8) of Part I of the First Schedule to The Chartered Accountant Act, 1949 which are as follows:

- i. The communication should be prior to the acceptance of the appointment as auditor.
- ii. The communication should be in writing.

Further, the "Code of Ethics (2009 edition)" for the Chartered Accountants emphasis that professional courtesy alone is not the major reason for requiring a member to communicate with the existing accountant who is member of the Institute or a certified auditor. The object of the incoming auditor, in communicating with the retiring auditor, is to ascertain from him whether there are any circumstances which warrant him not to accept the appointment.

- 4.2 In the instant case, the Board noted that the Respondent vide her letter dated 14th November 2019 clearly admitted that they had not done any written communication with the Complainant i.e., the previous auditor of the Company as they were informed by the Company about the malafide intention of the Complainant. The Board also noted that the

[PR-181/2019/DD-188/2019/BOD/659/2022]

Respondent during the course of hearing also admitted that she had no written communication with the Complainant prior to the acceptance of the appointment as the statutory auditor of the company for the FY 2018-19 as they were informed by the Company that they had communicated with the Complainant.

- 4.3 The Board further noted that the Respondent also brought on record a letter dated 14th November 2019 written by the Company and addressed to the Disciplinary Directorate wherein it was mentioned as under:

'that the intention of the Complainant was mala fide as he wanted to get the auditor of his choice only, appointed in the Company for the year 2018-19 and also he was not accepting the pending fee hence, it was requested by the Company to the Respondent not to communicate with the previous auditor i.e., the Complainant'.

Also, the Company too directly sent a letter dated 13th November 2019 to the Disciplinary Directorate stating that they had requested the Respondent not to communicate with the Complainant.

- 4.4 In the aforesaid circumstances, the Board viewed that the onus to communicate with the previous auditor is on the incoming auditor and the same cannot be passed on to the auditee. Also, whether the intention of the previous auditor is malafide or otherwise should not estop the incoming auditor to perform the duty cast upon him/her in terms of the requirements of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.
- 4.5 Thus, in view of the above together with the admission of the fact of non-communication with the Complainant prior to the acceptance of the appointment as the statutory auditor of the company for the FY 2018-19 by the Respondent during the course of hearing and also in her written submissions made at the prima facie stage, the Board held the Respondent Guilty in respect of the charge alleged.



[PR-181/2019/DD-188/2019/BOD/659/2022]

CONCLUSION:

5. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

Sd/-

CA. Rajendra Kumar P
(Presiding Officer)

Sd/-

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

Sd/-

CA. Priti Savla
(Member)

DATE: 19-12-2023

सही प्रतिनिधि होने के लिए प्रमाणित /
Certified to be true copy

नीलम पुंडीर / Neelam Pundir
अध्यक्ष कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनमयक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nager, Shahdara, Delhi-110032