



[PR/281/2019/DD/285/2019/BOD/735/2024]

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. Nitin S. Bangad (M. No. 049693),

M/s S.M. Bangad & Co. 1st Floor, Tapadia Terraces, Adalat Road

Aurangabad.....Complainant

Versus

CA. Ashish Ashok Baheti (M. No. 148353),

12 Housing Society, Near Mantri Bank, Distt. Beed,

Ambajogai.....Respondent

[PR/281/2019/DD/285/2019/BOD/735/2024]

MEMBERS PRESENT (THROUGH VIDEO CONFERENCE):

CA. Rajendra Kumar P, Presiding Officer

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

Date of Hearing and passing Order: 10th January 2025

1. The Board of Discipline vide its findings dated 27th August 2024 was of the view that CA. Ashish Ashok Baheti (M. No. 148353) 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. Ashish Ashok Baheti (M. No. 148353) and communication dated 2nd January 2025 was addressed to him thereby granting him an opportunity of being heard on 10th January 2025 which was exercised by him by 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. Ashish Ashok Baheti (M. No. 148353) and keeping in view of his representation before it, the Board decided to impose a **Fine of Rs.1,00,000/- (One Lakh Only)** upon CA. Ashish Ashok Baheti (M. No. 148353).

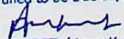
Sd/-

**CA. Rajendra Kumar P
(Presiding Officer)**

Sd/-

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

सही प्रतिलिपि होने के लिए प्रमाणित
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अरुण कुमार / Arun Kumar
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड अकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन-110, गान्धी मार्ग, नई दिल्ली-110032
ICAI Bhawan, New Delhi-110032

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**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. Nitin S. Bangad (M. No. 049693)**

M/s S.M. Bangad & Co.

1st Floor, Tapadia Terraces, Adalat Road**Aurangabad.....Complainant**

Versus

CA. Ashish Ashok Baheti (M. No. 148353)

12 Housing Society, Near Mantri Bank, Distt. Beed,

Ambajogai.....RespondentDate of Final Hearing : 26th June 2024

Place of Final Hearing : ICAI Bhawan, Mumbai

PARTY PRESENT (IN PERSON)

Respondent : CA. Ashish Ashok Baheti

FINDINGS:**BACKGROUND OF THE CASE:**

1. The Complainant being a practicing Chartered Accountant was appointed as the statutory auditor of M/s Veer Gurjar Aluminum Industries Pvt. Ltd. (hereinafter referred to as the "Company"). The Complainant carried out the statutory audit assignment of the Company up to the Financial Year March 2011. As per the audited books of accounts of the Company, the audit fees of Rs. 07.72 lacs were payable by the Company to the Complainant's Firm for the Financial Year 2010-11. However, only the part payment was received by the Complainant, and the outstanding balance of Rs. 04.72 lacs were yet to be received.
2. The Respondent had accepted and conducted the statutory audit assignment of the Company for the Financial year March 2012 till March 2017 without prior communicating with the Complainant and without ensuring as to whether his outstanding audit fees was paid by the Company. Further, the Complainant had not resigned from the post of

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statutory auditor of the Company and even the Director's report and Notice of AGM of the Company for March 2011 referred to re-appointment of the Complainant Firm as auditor in the Company. However, despite sending the letter through registered post and e-mail, no communication/reply was received by the Complainant from the Respondent.

CHARGE ALLEGED:

3. The Respondent accepted the statutory audit assignment of the Company for the Financial Year March 2012 till March 2017 without prior communicating with the Complainant and without ensuring the balance payment of the Complainant's audit fee of Rs. 04.72 lacs for the Financial Year 2010-11 by the Company.

BRIEF OF PROCEEDING HELD:

4. The details of the hearing fixed and held in the matter is as under:

S. No.	Date of hearing	Status of hearing
1.	26 th June 2024	Matter heard and hearing concluded

BRIEF SUBMISSIONS OF THE COMPLAINANT:

5. The Complainant vide email dated 22nd June 2024 attaching therewith a letter dated 20th June 2024 stated that as per Para No. 9.5 of the Prima Facie Opinion (PFO) of the Director (Discipline), which contains that *"it may be noted that from the bare perusal of the copy of the unsigned ledger of the complainant firm in the books of the company, it transpires that the closing balance as on 31.03.2011 is Rs 7.72 lacs whereas, the complainant has in his complaint, stated that the outstanding audit fees is Rs 4.72 lacs. The Complainant has not given any plausible explanation for these contradictory figures. Moreover, the said ledger account is unsigned one"*, humbly states that when the complaint was initially filed, in para 3 of Annexure-1 to e-Form-I, it was clearly stated that *"further part payments were received and the outstanding balance of Rs 4.72 lacs is pending as on date"*

The Complainant submitted that as per the copy of ledger submitted, the outstanding balance of fees receivable from the company was Rs. 07.72 lacs as per the last financial statement signed by the Complainant. Subsequently part of the fees was received in subsequent years & as on the date of filing of the complaint with ICAI, the outstanding balance was Rs. 04.72 lacs. Since the details regarding the subsequent fees received are quite old, therefore Complainant cannot submit any other documents / proof justifying the subsequent receipt or part of the outstanding fees. The Complainant, however, confirm that the outstanding fees receivable is Rs. 04.72 lacs even as on date.

6. The Complainant further states that Para No. 9.5 of the PFO records that, "Further, the Balance sheet of the company as of 31st March 2011 does not contain any head with regard to the audit fees. Thus, the Complainant has not provided any cogent evidence to substantiate this allegation". In response, the Complainant submits that in Complainant's ledger, Rs 7,72,324/- was included in the figure of Rs. 8,24,834/- as per statement in the sub-grouping of the various figures which were included in the figure of "Creditor for Goods & Expenses" in SUB-SCH-8 of the audited financial statement of the company as on 31st March 2011.

OBSERVATIONS OF THE BOARD:

7. At the outset, the Board noted that the Respondent was present in person before it. However, the Complainant vide his email dated 22nd June 2024 submitted that all the documents and materials available with him have already been submitted and he has nothing to submit further and requested the Board to decide the matter on merits.
8. Thus, upon review of the documents/evidence presented by the parties and as per first leg of allegation, wherein Complainant alleged that the Respondent had accepted the statutory audit assignment of the Company for the Financial Year March 2012 till March 2017 without prior communicating with the Complainant, the Board of Discipline notes that, the Complainant carried out the statutory audit of the Company for FY March 2011 and the Respondent carried out the statutory audit of the Company for FY March 2012 till March 2017. The Board further noted that neither the Complainant resigned nor the Respondent had any sort of communication with the Complainant before accepting the audit of the accounts of the Company.
9. The Board also noted that the Complainant brought Company's AGM Notice dated 5th September 2011 wherein it was stated that they will appoint auditors till next AGM. Further, in the said notice there is no mention of appointment of the Respondent nor there is any mention of Complainant retiring or Complainant resigning. Further, there is nothing on record to show that the Company even informed the Complainant that he is being replaced. Moreover, the Respondent never rebutted the said allegation. Additionally, the Respondent even admitted during the hearing before the Board that he has not obtained NOC from the Complainant. Hence, the said part of the allegation is an established fact.
10. The Board to make the observations more intelligible, herein elucidate the provision of Item (8) of Part-I of the First Schedule to the Chartered Accountants Act, 1949, which states as under:

"A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he –

(8) 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".

As rightly said in the PFO by the Director (Discipline) that from a bare perusal of the aforesaid statutory provision, before accepting the position as an auditor in any organization, a practicing Chartered Accountant shall communicate with the outgoing auditor in writing and any violation of this provision will make a Chartered Accountant liable for misconduct.

11. As regard the second leg of allegation, wherein the Complainant alleged that the Respondent had accepted the statutory audit assignment for the Financial Year March 2012 till March 2017 without ensuring the balance payment of the Complainant's audit fee of Rs. 04.72 lacs for Financial Year 2010-11 by the Company, the Board noted that the Respondent admitted during the hearing that there was outstanding fee. Hence, the said part of the allegation is also an established fact.
12. Thus, on a detailed hearing of the submissions, admission of the Respondent besides perusing the documents on record, the Board is of the view that the Complainant has been able to substantiate with corroborative and conclusive documentary evidence in his claim that the Respondent had accepted the statutory audit assignment of the Company

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for the Financial Year March 2012 till March 2017 without prior communicating with the Complainant and without ensuring the balance payment of the Complainant's audit fee of Rs. 04.72 lacs for Financial Year 2010-11 by the Company.

CONCLUSION:

13. 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/-

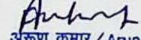
Dolly Chakrabarty, IAAS (Retd.)
Government Nominee

Sd/-

CA. Priti Savla
Member

Date: 27-08-2024

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अरुण कुमार / Arun Kumar
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PR/197/2021/DD/274/2021/BOD/744/2024]

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. Jai Kumar Mansharamani (M. No. 073450),

Partner of M/s Khandelwal Khare & Associates, Chartered Accountants
19, ODA SFS Flats, Opposite Ansal Plaza, Niti Bagh,

New Delhi.....Complainant

Versus

CA. Dinesh Kumar Ahuja (M. No. 080757)

Professional Address	Residential Address
5328/67, First Floor, HS Road, Karol Bagh, New Delhi	B4/17 Rajouri Garden, New Delhi

.....Respondent

[PR/197/2021/DD/274/2021/BOD/744/2024]

MEMBERS PRESENT (THROUGH VIDEO CONFERENCE):

CA. Rajendra Kumar P, Presiding Officer

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

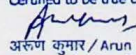
Date of Hearing and passing Order: 10th January 2025

1. The Board of Discipline vide its findings dated 14th December 2024 was of the view that CA. Dinesh Kumar Ahuja (M. No. 080757) 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. Dinesh Kumar Ahuja (M. No. 080757) and communication dated 2nd January 2025 was addressed to him thereby granting him an opportunity of being heard on 10th January 2025 which was exercised by him by 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. Dinesh Kumar Ahuja (M. No. 080757) and keeping in view of his representation before it, the Board decided to impose a **Fine of Rs.25,000/- (Rs. Twenty-Five Thousand only)** upon CA. Dinesh Kumar Ahuja (M. No. 080757).

Sd/-

CA. Rajendra Kumar P
(Presiding Officer)

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अरुण कुमार / Arun Kumar
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक, विवेचनात्मक एवं शिस्तपूर्ण
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Sd/-

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

BOARD OF DISCIPLINE

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

FINDINGS UNDER RULE 14 (9) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007

CORAM (THROUGH VIDEO CONFERENCE):

CA. Rajendra Kumar P, Presiding Officer
Ms. Dolly Chakrabarty, Government Nominee

IN THE MATTER OF:

CA. Jai Kumar Mansharamani (M. No. 073450)

Partner of M/s Khandelwal Khare & Associates, Chartered Accountants
19, DDA SFS Flats, Opposite Ansal Plaza, Niti Bagh

New Delhi..... Complainant

Versus

CA. Dinesh Kumar Ahuja (M. No. 080757)

Professional Address: 5328/67, First Floor, HS Road, Karo! Bagh, New Delhi	Residential Address: 163/1, Vani Vilas Road, Basavanagudi, Bengaluru
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.... Respondent

Date of Final hearing : 28th October 2024
Place of Final hearing : New Delhi

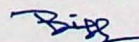
PARTIES PRESENT (THROUGH VC):

Complainant : CA. Jai Kumar Mansharamani

FINDINGS:

BACKGROUND OF CASE

1. The instant case revolves around a complaint filed by a firm that served as a Statutory Auditor of the Ridhima Overseas Private Limited ("**Company**") from 30th September 2014. The firm represented by the Complainant as the signing partner resigned on 18th October 2018 due to a lack of co-operation from the Company during the statutory audit for financial year 2017-18. The resignation was formalized by filing Form ADT-3 with the Registrar of Companies on 30th March 2019. Despite resignation, the Company failed to settle outstanding dues, and the Complainant was requested by the Company's Director Ms. Indu



[PR/197/2021/DD/274/2021/BOD/744/2024]

Sud to issue a No Objection Certificate (NOC) to the newly appointed auditors. However, the new auditor of M/s Y S & Associates, did not provide proper firm credentials in his communication with the Complainant, leading to repeated but unanswered requests for verification from the Complainant. In March 2020, the Complainant discovered that the financial statements for financial year 2017-18 and financial year 2018-19 had been signed by the Respondent on 31st October 2018 and 07th September 2019 respectively, without seeking the required NOC. Additionally, the Complainant accused the Respondent of backdating the audit reports, causing a delay in the statutory filings with the Registrar of Companies, which were completed in February 2020. Despite several objections raised via email, including one on 18th September 2020, concerning the outstanding dues and irregularities in the appointment process, the Respondent did not respond, prompting the Complainant to lodge this complaint.

CHARGE ALLEGED:

- It is alleged that the Respondent has accepted the Statutory Audit Assignment of the Company for the financial year 2017-18 to 2018-2019 without prior communicating with the previous auditor (i.e., the Complainant) and without ensuring the payment of the Audit fee to the Complainant. Hence, the Respondent has made contravention of Item (8) of Part I of First Schedule to the Chartered Accountants Act, 1949.

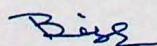
BRIEF OF PROCEEDINGS HELD:

- The details of the hearings fixed and held in the matter are given as under:

Date of Hearing	Status of hearing
28 th October 2024	Matter is heard and the hearing is concluded.

OBSERVATIONS OF THE BOARD:

- At the outset, the Board noted that despite notice, the Respondent has not appeared whereas the Complainant appeared before it through Video Conference on the date of hearing of the instant matter and submitted that he has resigned from the Company on 18th October 2018 for the financial year 2017-18 due to lack of non-cooperation from the company while conducting the assignment of audit for which ADT-3 was filed with the Registrar of Companies on 30th March 2019. Further, he has received an e-mail from a Chartered Accountant firm YS & Associates that they have been appointed as auditor and whether the Complainant has any objection to their accepting the appointment. In response thereof, the Complainant requested them to show him the firm record / credentials and appointment letter issued by the Company, but no response was received. Subsequently, the Complainant inspected the uploaded financial statements of the Company pertaining to financial years 2017-18 and 2018-19 from the portal of MCA on 09th March 2020. Upon perusal of the said financial statements, the Complainant observed



that the same were signed by the Respondent on 31st October 2018 and 07th September 2019 respectively without seeking NOC from the Complainant firm before accepting the statutory audit of the Company.

5. The Board further noted that the Complainant sent an email dated 18th September 2020 to the Respondent apprising him of his outstanding dues from the Company and objection to his appointment as the statutory auditor. However, despite sending reminder emails several times, the Respondent failed to revert to the Complainant.
6. The Board further noted that the Complainant alleged that the Respondent has backdated the audit report and financial statements of the Company, as such, the statutory annual filings with the Registrar of Companies for the said years were completed belatedly in February 2020. Further, from the portal of MCA, form ADT-1 for appointment of the Respondent as auditor for financial year 2018-19 was filed on 30th July 2020 and form ADT-3 for the resignation of the Respondent was filed on 14th January 2021. However, as regard all allegations except Item (8) of Part-I of First Schedule to the Chartered Accountants Act, 1949, the Director (Discipline) in his Prima Facie Opinion rightly recorded as under: -

"Perusal of record shows that in the instant complaint, the Complainant has alleged that the Respondent has violated the provisions of Items (5), (6), (7) and (9) of Part I of the Second Schedule and Item (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949. Perusal of record further shows that the Complainant has not placed on record any documentary evidence in support of the allegations related to the violation of the provisions of Items (5), (6), (7) and (9) of Part I of the Second Schedule. Meaning thereby, the Complainant has levelled unsubstantiated and bald allegations against the Respondent, hence, there is no substance in these allegations. In the result, the alleged violation of the provisions of Items (5), (6), (7) and (9) of Part I of the Second Schedule are liable to be dropped. In the circumstances, the only allegation against the Respondent is that the Respondent has accepted the statutory audit assignment of the Company for the FYs 2017-18 and 2018-19 without prior communication with the Complainant and without ensuring the payment of the audit fees to the Complainant by the Company".

Thus, the Board examined the sole allegation concerning the Respondent's acceptance of the statutory audit assignment for the financial years 2017-18 and 2018-19 without prior written communication with the Complainant.

7. The Board noted that item (8) of Part-I of the First Schedule to the Chartered Accountants Act, 1949, unambiguously mandated that a Chartered Accountant must communicate in writing with the outgoing auditor before accepting an audit assignment previously held by another Chartered Accountant. This statutory provision was intended to enable the incoming auditor to understand

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the reasons for the change and to safeguard the interests of both the public and the profession's independence.

8. The Board noted that the record demonstrated that the Respondent received an appointment letter on 26th October 2018, to serve as the Company's Statutory Auditor, with Form ADT-1 subsequently filed with the Registrar of Companies on 30th July 2020. While the Respondent claimed to have sent a letter requesting a No Objection Certificate (NOC) to the Complainant Firm, however, no conclusive evidence, such as a delivery report or acknowledgment, was submitted to prove receipt by the Complainant. It was significant that the Code of Ethics 2009, explicitly required the incoming auditor to retain verifiable proof of delivery, as evidenced by the guidelines that communication with the outgoing auditor should ideally be via registered post or hand delivery with due acknowledgment. This lack of proof indicated a failure to fulfil the due process as prescribed by the Code of Ethics 2009. The relevant extract governing such provision is provided in the Code of Ethics, (Edition 2009) at pages 165-166, which is extracted, for reference, hereunder:

"Members should therefore communicate with a retiring auditor in such a manner as to retain in their hands positive evidence of the delivery of the communication to the addressee. In the opinion of the Council, communication by a letter sent "Registered Acknowledgment due" or by hand against a written acknowledgment would in the normal course provide such evidence."

9. Besides above, the Board noted that the Respondent has not placed on record any documentary evidence to indicate the delivery of the NOC letter to the Complainant Firm. Thus, the Charge against the Respondent of non-communication to the Complainant prior to acceptance of statutory audit assignment of the Company for the financial year 2017-18 remains unrebutted. Meaning thereby, the Respondent had accepted the position as statutory auditor in the Company without prior communicating with the Complainant in the manner as provided under Code of Ethics. Thus, in conclusion, based on the documents on record and considering the requirements of the Code of Ethics, the Board found that the Respondent, by failing to ensure documented communication with the Complainant, committed a breach of Professional Misconduct under Item (8) of Part-I of the First Schedule to the Chartered Accountants Act, 1949. Accordingly, the Respondent is found '**Guilty**' of Professional Misconduct in this regard. However, the allegation of accepting the assignment without ensuring payment of undisputed fees was unsubstantiated and was therefore rightly dismissed by the Director (Discipline) in his Prima Facie Opinion.

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CONCLUSION:

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

Sd/-
CA. Rajendra Kumar P
Presiding Officer

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

Date: 14-12-2024

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