



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

[PR-20/17-DD/217/2017/DC/989/2019]

ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.

[PR-20/17-DD/217/2017/DC/989/2019]

In the matter of:

Shri Sanjay Kumar
Authorised Representative
M/s Omron Healthcare India Pvt Ltd
6th floor, B-Block, Sewa Tower,
Plot no. 19, Sector-18, Udyog Vihar,
Maruti Industrial Complex
Gurgaon-122008.

.....Complainant

Versus

CA. Vishal Dhingra (M. No. 408383)
H. no. 1054, FF,
Shakti Khand 4,
Indrapuram
Ghaziabad-201010

.....Respondent

MEMBERS PRESENT:

1. CA. (Dr.) Debashis Mitra, Presiding Officer
2. Shri Rajeev Kher, I.A.S. (Retd.), Government Nominee
3. CA. Amarjit Chopra, Government Nominee
4. CA. Rajendra Kumar P, Member
5. CA. Babu Abraham Kallivayalil, Member

DATE OF MEETING : 06.04.2021 (Through Physical/Video Conferencing Mode)

1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 dated 10.02.2020, the Disciplinary Committee was inter-alia of the opinion that **CA. Vishal Dhingra (M. No. 408383)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Item (4) of Part II of the Second Schedule and Item (2) of Part IV of First Schedule of Chartered Accountant Act 1949.

Shri Sanjay Kumar Authorised Representative M/s Omron Healthcare India Pvt Ltd Vs. CA. Vishal Dhingra (M. No. 408383)

The Institute of Chartered Accountants of India
10033, Vasant Nagar, Shrihar, Delhi-110033



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[PR-20/17-DD/217/2017/DC/989/2019]

2. The Committee noted that the Respondent was present before the Bench through Video Conferencing mode and took oath as to the fact that he would speak only the truth and gave self-declaration as to he was being alone in the room from where he was appearing and was not recording the proceedings of the Committee. The Respondent presented his defense and requested the Committee for considering his case with a lenient view. The Respondent, though, admitted the professional misconduct on his part, yet, he emphasized that there was no harm or financial loss caused to anyone due to the lapse.

3. The Committee noted that act of embezzlement of funds through raising questionable invoices and making payment to entities that only exist merely on paper leads to serious erosion of trust. Further, in the present case the Complainant Company is a Japanese company and the managerial personnel who run the company are also of Japanese origin, hence it considered the present matter more seriously. Accordingly, the Committee is of the view that the ends of justice shall be met if severe punishment is granted to him.

4. Therefore, keeping in view the facts and circumstances of the case, material on record and submissions of the Respondent before it, the Committee ordered that the name of the Respondent i.e. CA. Vishal Dhingra (M.No.408383) be removed for a period of Five years.

sd/-
(CA. (Dr.) DEBASHIS MITRA)
PRESIDING OFFICER

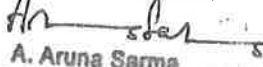
(approved & confirmed through email)
(SHRI RAJEEV KHER, I.A.S. RETD.)
GOVERNMENT NOMINEE

(approved & confirmed through email)
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

(approved & confirmed through email)
(CA. BABU ABRAHAM KALLIVAYALIL)
MEMBER

Certified to be true copy


A. Aruna Sarma

Sr. Executive Officer
Disciplinary Directorate

Shri Sanjay Kumar Authorised Representative, M/s Omron Healthcare India Pvt Ltd Vs. CA. Vishal Dhingra (M. No. 408383)

The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2019-2020)]

[Constituted under Section 21B of the Chartered Accountants (Amendment)
Act, 1949]

Findings under Rule 18(17) of the Chartered Accountants (Procedure of
Investigations of Professional and Other Misconduct and Conduct of Cases)
Rules, 2007.

File No. : [PR-20/17-DD/217/2017/DC/989/2019]

In the matter of:

**Shri Sanjay Kumar
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**CA. Vishal Dhingra (M. No. 408383)
H. no. 1054, FF,
Shakti Khand 4,
Indirapuram
Ghaziabad-201010**

.....Respondent

MEMBERS PRESENT:

**CA. Atul Kumar Gupta, Presiding Officer
CA. Amarjit Chopra, Government Nominee
CA. Rajendra Kumar P, Member
CA. Chandrashekhar Vasant Chitale, Member**

DATE OF FINAL HEARING : 16.12.2019

PLACE OF FINAL HEARING : ICAI Bhawan, Delhi



PARTIES PRESENT:

- Complainant : Shri Sanjay Kumar, Authorised Representative
Counsel for the Complainant : Shri Rajendra Dangwal (Advocate)
Counsel for the Respondent : Shri R.K.Lamba (Advocate)

Charges in Brief

1. The Committee noted that in the Prima-Facie Opinion formed by Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Respondent is guilty under Clauses (4) of Part II of the Second Schedule and Clause (2) of Part IV of First Schedule of Chartered Accountant Act 1949. Clause (4) of Part II of Second Schedule states as under:-

"(4) expresses his opinion on financial statements of any business or enterprise in which he, his firm, or a partner in his firm has a substantial interest;"

And Clause (2) of Part IV of First Schedule states as under:-

"(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work"

2. M/s. Omron Health Care India Pvt. Ltd. through their authorised representative Mr. Sanjay Kumar has filed a complaint against CA Vishal Dhingra. CA Vishal Dhingra, the Respondent was in employment with the Complainant during the period 2012-2016. The Complainant has alleged that during the course of his employment the Respondent committed offences resulting in embezzlement of an amount to the tune of Rs.2,64,51,474/-. As consequence of this, the Respondent was terminated from the services of the Complainant's Company.
3. It is also alleged by the Complainant that the Respondent conspired with an ex-employee and created fake and non-existing advertising firms and embezzled money by issuing forged cheque against fake invoices/vouchers. The Respondent using his position as head of accounts of the Complainant's Company approved fake vouchers and invoices resulting in a monetary gain to a non-existing advertising firm created by him. The Respondent is the custodian of the Complainant's cheque books misused his authority by forging signatures of the Managing Director of the Complainant's Company



on the cheques and embezzled money into fake non-existing advertising firm created by him.

Brief facts of the Proceedings

4. The hearing was held on 09th April, 2019, 15th May, 2019, 09th July, 2019, and 06th August, 2019 and on 21st October, 2019. On the date of final hearing i.e. 16/12/2019, the Complainant represented by the authorised representative and their counsel and the Respondent along with his counsel was present on the date of the personal hearing. The parties were already on oath as the matter was part heard and adjourned on above-mentioned dates. The Committee wanted to know from the Respondent whether he is aware of the charges and whether he would like to plead guilty. The Respondent replied that he is aware of the charges leveled against him and he does not want to plead guilty. Having heard the Respondent's reply to the Committee on perusal of papers on record found that the Respondent did not file any written reply at the PFO stage when the opportunity was granted to him. The Respondent informed that he was not in good condition and that the company was continuously after him to settle the case. The Committee records its displeasure against the very casual manner in which the Respondent has treated this complaint at the PFO stage. The Committee directed the Respondent to proceed with his defence.

Findings of the Committee

5. The Respondent submitted written representation/objections and certain contents of the same are reproduced below:

"That, at the outset, the respondent craves that blasphemous and insipid insinuations created and orchestrated by Shri Sanjay Kumar Authorised Representative, M/S Omron Healthcare India Pvt Ltd are the expressions of their frustrations evolving from prejudices on account of inconvenient disclosures.

The respondent hereinafter places relevant facts and circumstances corroborated by evidence, in tendering on contents of Complaint u/s 21 of the Chartered Accountants Act, 1949 [as amended by the Chartered Accountants (Amendment) Act, 2006 for due consideration of the Disciplinary Committee of ICAI.

Before appending my reply on the Prima Facie Opinion certain facts relating to the conduct of the Complainant Company which we would like to bring on the record for the kind consideration of Disciplinary Committee of ICAI.



- a) *That it is submitted that Respondent joined the Complainant Company vide letter of Appointment dated 06th May, 2011. Copy of the Appointment letter dated 06th May, 2011 is enclosed as Annexure-I. The Respondent joined the Complainant Company as per the stipulated date as Account Assistant Manager. In the said appointment letter no scope of work as employee was determined and mentioned.*
- b) *That the Respondent was discharging the role of Account Assistant Manager as per role/responsibilities assigned by Mr Shinya Tomoda, the then Managing Director of the Complainant Company. It is also apprised that all internal systems and procedures were laid down and implemented by the Complainant Company as per the directions of their parent company.*
- c) *That the Complainant Company kept all the financial powers relating to maintenance & followance of cheque book register, cheque books, deposition of statutory liabilities, filing, submitting & uploading of statutory returns including TDS Returns and allied financial responsibilities with Mr Shinya Tomoda, Managing Director. It is also apprised that no other person other than Mr Shinya Tomoda, Managing Director was responsible for all the financial transaction, release of payment(s) and other financial liabilities.*
- d) *That Complainant Company was subject to Internal Audit carried out by their own team comprising of all Japanese personnel in which no Indian professional was involved. These Internal Audit functions were very stringent and in-depth in nature."*
6. The Complainant has through various evidences submitted before the Committee in the form of invoices, copies of photographs, payment vouchers highlighted the wrong doing of the Respondent. It may be seen from the records in the form of PAN card and other details placed before the Committee by the Complainant, various payments were made to M/s. Arora Advertising for the invoices raised by them for various services mainly signboard provided by the said advertising agency. The available photocopies reflects only the name of M/s Arora Advertising is mentioned in the invoice and no other mandatory information like address, contact number, TAN details of the firm are mentioned on the invoices raised by the said M/s Arora Advertising and the manner in which the invoices has been raised i.e. no Value Added Tax VAT (12.5%) were charged in these invoices which was mandatory required under Sales Tax Law. This points a needle of suspicion towards conduct of the Respondent. The Sample Copy of invoice are annexed below:-



Arora Advertising

भारत स्यान्डर्ड एन्डिज प्रिन्टिन्ग अन्ड डिजिटल प्रिन्टिन्ग

INVOICE	
Date	06/12/14
Advertiser	Omron Healthcare India Private Limited
Address of Advertiser	Sewa Corporate Park, M. G. Road, Gurgaon-122007
Advertiser Product	Healthcare Product
Invoice Number	0155 Signboard 02
Order Number	NIL

S.No.	PARTICULARS	QTY. (Sq. Ft.)	RATE	AMOUNT
	Signboard	3		40,750
			Sub Total	
			Total Inv.	40,750

INR 40,750/-
 Fourty thousand seven hundred and fifty only
 (Rupees)

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Arora Advertising

भारत स्यान्डर्ड एन्डिज प्रिन्टिन्ग अन्ड डिजिटल प्रिन्टिन्ग

INVOICE	
Date	03/01/15
Advertiser	Omron Healthcare India Private Limited
Address of Advertiser	Sewa Corporate Park, M. G. Road, Gurgaon-122007
Advertiser Product	Healthcare Product
Invoice Number	138040
Order Number	NIL

S.No.	PARTICULARS	QTY. (Sq. Ft.)	RATE	AMOUNT
1	Signboard	7	9500	65500
			Sub Total	65500
			Total Inv.	65500

INR 65,500/-
 Sixty five thousand five hundred only
 (Rupees)

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 Arora Advertising - F

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Arora Advertising

Printed and published by the Respondent at the address mentioned below

INVOICE

Date: 10/01/2017
 Client: Care of Omron India Pvt Ltd
 Address of Client: 5th Floor, Corporate Park, M. G. Road, Gurgaon - 122001
 Advertiser Product: In. S. S. Product
 Invoice Number: 017-16
 Order Number: 50

Arora Advertising

Printed and published by the Respondent at the address mentioned below

INVOICE

Date: 10/01/2017
 Advertiser: Omron India Pvt Ltd
 Address of Advertiser: 5th Floor, Corporate Park, M. G. Road, Gurgaon - 122001
 Advertiser Product: Healthcare Product
 Invoice Number: OHS/Sigbrow/04
 Order Number: Nil

S.No.	PARTICULARS	QTY. (Sq. Ft.)	RATE	AMOUNT
1	Sigbrow	5	8500	42500
				42500
				42500

S.No.	PARTICULARS	QTY. (Sq. Ft.)	RATE	AMOUNT
1	Sigbrow	6		41,215
				41,215
				41,215

The Committee while specifically enquired from the Respondent about various payments amounting to Rs.1,77,49,696/- made to M/s Arora Advertising and his connection in any manner to this M/s Arora Advertising, the Respondent confessed before the Committee that the said M/s Arora Advertising belongs to his father Mr. Vinod Kumar.

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7. The Committee also noted various hotel bills that are placed on records by the Complainant in the form of compilation dated 05-04-2019 wherein the numbers of hotel bills were annexed in the name of Mr. Manoj Kumar Maharana. The Committee noted that the hotel bills of various hotels having the same room rent with the same room number at various dates without any service charges/tax deducted in most of the bills of various 4-star rating hotels amounting to Rs.18,89,985/-. The Sample copies are annexed as follows:

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Omron Hotels & Resorts

INVOICE

of U. Kesari Rd.
(Hindalaya Road)
Oranagar Road - 371 012
Mumbai P. 185th, India
Fax: +91(11) 2933803
Date: 15/02/2013

Omron Hotels & Resorts

INVOICE

No. 1012
Name: Manoj Kumar Maharana
Date of Arrival: 24/02/2013
Date of Departure: 25/02/2013
Room No: 1001

Water supply
Drinking water
Cable TV - 171 012
Mumbai, Pradesh, India
Fax: +91(11) 2933803
E-mail: 15872971

No. 555
Name: Manoj Kumar Maharana
Date of Arrival: 24/02/2013
Date of Departure: 25/02/2013
Room No: 1001

Time: 1:30 A.M.
Time: 10:15 P.M.

No. 1012
Name: Manoj Kumar Maharana
Date of Arrival: 24/02/2013
Date of Departure: 25/02/2013
Room No: 1001

Time: 12:30 A.M.
Time: 07:15 P.M.

PARTICULARS	AMOUNT	Rs.	P.	P.	P.
ROOM RENT PER DAY 2ND TOTAL 2 DAYS	1500	00			
FOOD & BEVERAGES					
TELEPHONE					
LAUNDRY					
EXTRA BED					
TRAVEL DESK	470	00			
TOTAL	1500	00			
TAX		00			
GRAND TOTAL	1500	00			
ADVANCE					
BALANCE					

CHECK OUT TIME: 12:00 NOON

CHECK OUT TIME: 12:00 NOON

8. The Committee noted with displeasure that with regards to below mentioned bill of Redission Blue Hotels, it is observed while comparing both the bills annexed below that Bill No. 18239 is the bill for the month 13-12-2013 dated 28-07-2013 which is practically impossible. Even the Room Number 990 is same in both the bills also the checkout time is same 10.40 pm in both the bills and no service charge is charged by the hotel while stay in the hotel for 3 days. even the Room rent charged by the hotel is nowhere matched with the prevailing market rates is as low as Rs.2900/- per day . The Committee while comparing both below mentioned bills finds it to be manipulated and fabricated bills wherein the formats of various bills of different hotels across pan India are also similar which is practically not possible.

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Redission Blue

INVOICE

P. 2016/5. J.
 Amritsar - 143001
 Punjab India
 Fax: +91 983 6611124
 Date: - 28/07/2013

No. : 15061

Name : Manoj Kumar Maharana

Date of Arrival : 26/07/2013 Time : 8.40 A.M.
 Date of Departure : 28/07/2013 Time : 10.14 P.M.

Room No 590

PARTICULARS	AMOUNT	
	Rs.	P.
ROOM RENT PER DAY @ 900 TOTAL 3 DAYS	1-400	00
FOOD & BEVERAGES		
TELEPHONE		
LAUNDRY		
EXTRA BED		
TRAVEL DESK	625	
MISC	TOTAL 1765	00
	SC. 00	00
	GROSS 1765	00
ADVANCE		
BALANCE	1765	00

E.O.F. CHECK OUT TIME: 10.00 AM
 (This is computer generated invoice and is not valid without signature)

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Redission Blue

INVOICE

Airport Road,
 Amritsar - 143001
 Punjab India
 Fax: +91 983 6611122
 Date: - 28/07/2013

No. : 18239

Name : Manoj Kumar Maharana

Date of Arrival : 13/12/2013 Time : 12.43 A.M.
 Date of Departure : 15/12/2013 Time : 10.14 P.M.

Room No 990

PARTICULARS	AMOUNT	
	Rs.	P.
ROOM RENT PER DAY 2900 TOTAL 3 DAYS	1500	00
FOOD & BEVERAGES		
TELEPHONE		
LAUNDRY		
EXTRA BED		
TRAVEL DESK	300	
MISC	TOTAL 1800	00
	SC. 00	00
	GROSS 1800	00
ADVANCE		
BALANCE	1800	00

E.O.F. CHECK OUT TIME: 10.00 AM
 (This is computer generated invoice and is not valid without signature)

9. The Committee noted that the Complainant draws attention of the Committee on the charge that the Respondent along with Mr. Manoj Kumar Maharana has forged the signature of Mr. Masuda and Mr. Tomoda. To substantiate this charge the Complainant place on record Expert Witness Report admissible U/s 45 of Indian Evidence Act dated 02-07-2016 issued by SIFC India (Forensic Science Laboratory) annexed as 'Annexure-6' on page no. 1339 of compilation received dated 05-04-2019. The extract of result is reproduced as follows:-

RESULT AND OPINION

"After doing the in-depth analysis of the provided documents, we have observed dissimilarities in the signatures which are significant and sufficient to reach a definite conclusion. All the described dissimilarities are unique and fundamental in its nature and beyond range of natural variation. The writing habits between the signatures lead to a conclusion that the writer is different in both the set of documents marked as questioned(Q-1 to Q-8) and the specimen (S-1 to S-4)."

10. During the course of proceeding, the Committee directed to summon the other Director of M/s Omron Healthcare India Pvt Ltd. located at Japan at that time. The Complainant sought adjournment to produce the same as witness on the next hearing. However, during the next date of hearing instead of producing the Director of the Company before the Committee either personally or through video conferencing the Respondent submitted a letter from the Complainant Company signed by Mr. Sanjay Kumar, the authorised representative. The Complainant vide said letter dated 19.8.2019 informed the Director (Discipline) the following:

"We would like to bring to your kind attention that the dispute between the company and CA. Vishal Dhingra has been resolved and as such the company does not wish to pursue this complaint any further. Therefore, request to withdraw this complaint."

11. The Complainant also submitted a settlement agreement dated 7.8.2019 wherein through the settlement agreement between the Complainant company and the Respondent alongwith two others have settled the dispute. The following clauses from the said settlement agreement merit reproduction:

"In the year 2016, after an extensive internal investigation, it was discovered that on account of certain unauthorized actions of the Second Party, the First Party suffered substantial monetary loss of around INR 2,65,00,000 (Rupees Two Crores Sixty-Five Lacs).

Subsequently, pursuant to a criminal complaint filed by the First Party on 25 July 2016, a FIR dated 23 December 2016 bearing no. 0678/2016 was registered against Mr. Dhingra and Mr.

Maharana by the SHO, Police Station, DLF Phase II, Gurgaon under Sections 120B, 408, 467, 468 and 471 of the Indian Penal Code, 1860 (FIR).

In the meanwhile, Mr. Dhingra and Mr. Maharana obtained bail by submitting a Bail Bond of INR 40,00,000 (Rupees Forty Lacs) before the District Court, Gurgaon (District Court). Thereafter, INR 10,00,000 (Rupees Ten Lacs) was subsequently released by the District Court in favour of the First Party, upon the consent of Mr. Dhingra and Mr. Maharana (Released Bail Bond Amount). As such, as of date, an amount of INR 30,00,000 (Rupees Thirty Lacs) is currently deposited as Bail Bond before the Court (Remaining Bail Bond Amount). Thereafter, in September 2017, pursuant to the FIR, a charge sheet was filed by the concerned police authorities against the Second Party, in the District Court (Charge Sheet).

The legal proceedings arising out of or in relation to the FIR and the Charge Sheet are collectively referred to herein as the Legal Proceedings.

Additionally, on 30 June 2017, a complaint was filed by the First party against Mr. Dhingra before the Institute of Chartered Accountant (ICAI) under Section 21 of the Chartered Accountants Act, 1949 in accordance with Rule 3(1) of Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Case) Rules, 2007 (ICAI Complaint). The proceedings arising out of the ICAI Complaint are presently on-going before the ICAI.

Further, in May 2019, the First Party filed a civil suit for injunction, damages and rendition of accounts against the Second Party before the District Court, Gurgaon bearing CS No. 1803/2019 (Civil Suit). The proceedings in the Civil Suit are presently on-going.

In this background, sometime between the period from the year 2017 to 2019, the Second Party approached the First Party with a request to settle the above-mentioned disputes. While the actual loss suffered by the First Party is around INR 2,65,00,000 (Rupees Two Crores Sixty Five Lacs), pursuant to the negotiations held between the Parties, the Second Party have offered to pay and the First Party has accepted to receive the Settlement Amount as defined and detailed hereinbelow, as a full and final settlement of their disputes, in the manner and subject to the conditions set out in this Agreement."

12. After hearing both the sides and taking the above settlement agreement on record and the Respondent being a party to the said settlement Deed proves his guilt beyond doubt. The Respondent has made the payment to the Company in consequence of the settlement deed is a proof that he has been a party to embezzlement of funds through various questionable means and opted for settlement via compensation mode.
13. The Committee takes note of the letter of withdrawal of complaint filed by the Complainant. The Committee has perused the material placed before it, heard the Complainant and the Respondent on various dates and is convinced that Respondent has committed serious breach of trust. The Complainant Company is a Japanese

company and the managerial personnel who run the company are also of Japanese origin. They have invested in India with enormous trust and belief in the country and its people. Acts of embezzlement of funds through raising questionable invoices and making payment to entities that only exist merely on paper leads to serious erosion of trust not only in its people but nation at large. Thus in view of the Committee notwithstanding the settlement agreement, the Respondent deserves no mercy. The letter of withdrawal of complaint filed by the Complainant is set aside and the Respondent is held guilty of professional misconduct.

Conclusion

14. In view of the above findings, and reasoning as stated in above Para, the Committee is of the considered opinion, that the Respondent is held **GUILTY** under Clauses (4) of Part II of the Second Schedule and Clause (2) of Part IV of First Schedule of Chartered Accountant Act 1949.



Sd/-
(CA ATUL KUMAR GUPTA)
PRESIDING OFFICER

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

Sd/-
(CA. CHANDRASEKHAR V. CHITALE)
MEMBER

DATE:10.02.2020
PLACE: New Delhi

Certified True Copy

Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India
ICAI Bhuban, I.P. Marg, New Delhi-110 002