



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

[PR 317/14/DD/336/2014/DC/490/2016]

**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.**

**In the matter of:**

**Ms. Richa Kukreja, Joint Director (CL), Serious Fraud Investigation Office, Ministry of Corporate Affairs, Govt. of India, New Delhi**

**-vs-**

**CA. Shri Kishan Gupta (M.No. 084077), New Delhi**

**[PR 317/14/DD/336/2014/DC/490/2016]**

**Date of Order : 12<sup>th</sup> October, 2020**

**MEMBERS PRESENT:**

- 1. CA. Nihar Niranjan Jambusaria, Presiding Officer**
- 2. Shri Arun Kumar, IAS (Retd.), Government Nominee**
- 3. Ms. Nita Chowdhury, IAS (Retd.), Government Nominee**
- 4. CA. (Dr.) Debashis Mitra, Member**
- 5. CA. Jay Chhaira, Member**

1. That vide report dated 15<sup>th</sup> October, 2019, the Disciplinary Committee held **CA. Shri Kishan Gupta (M.No. 084077), New Delhi** (hereinafter referred to as the “Respondent”) **GUILTY** of professional and other misconduct falling within the meaning of Clause (1) of Part II of the Second Schedule and clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

2. That an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and communication was addressed to him

**CA. Shri Kishan Gupta (M.No. 084077), New Delhi**



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

[PR 317/14/DD/336/2014/DC/490/2016]

thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 12<sup>th</sup> October, 2020.

3. The Respondent appeared before the Committee on 12<sup>th</sup> October, 2020 through video conferencing and made oral representations on the findings of Disciplinary Committee dated 15<sup>th</sup> October, 2019.

4. On perusal of findings of earlier Committee dated 15/10/2019, the Committee noted that *“subject three companies controlled by the Respondent recorded substantial commission income from Ashana Enterprises / Jhanvi Gifts just for telling the name of the entities like Ajit Trading, Innovative Incentives and Events Pvt. Ltd., Akzo Noble, etc. Further, though he was an introducer he was not aware of the office addresses, telephone numbers or about the management of those entities which were the clients introduced to earn commission. The Committee noted the vague arrangement between the Respondent’s firm, firms of Lamba family and RIC (Reebok India Company) and further noted that though the Respondent had contended that the Complainant-Department had forcibly taken his statement but he had not brought on record any retraction filed by him after it. Hence, the Committee agreed with the findings as mentioned in the Investigation Report that no services were rendered by the three Companies to Ashana Enterprises / Jhanvi Gifts Ads and the commission so paid was nothing but the accommodation entries provided by the Respondent.*

*4.1 The Committee further noted that the Investigation report also revealed that no action was taken by DMC for realization of the huge amount of Rs 96 lacs due from Ashana Enterprises and also that as per the books of account of Ashana Enterprises for 2010-11, it was observed that Tata Teleservices Ltd., Innovative Incentives and Events Pvt. Ltd. had opening balances as on 01.04.2010, which meant that the Ashana Enterprises already had business relations with them.*



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

[PR 317/14/DD/336/2014/DC/490/2016]

*In other words, the contention of the Respondent of having introduced such client was not valid. In this regard, it was noted that when the Respondent was specifically asked as to how he could say that he introduced them to Ashana Enterprises and Jhanvi Gifts & Ads and thereafter earned commission thereof for the same, he could not give any convincing reply beside simply stating that he introduced the said Company and did not know about their old business which again demonstrated that actually no services were being rendered by these three companies to Ashana Enterprises and Jhanvi Gifts & Ads and the commission so paid was nothing but the accommodation entries provided by the Respondent more so when huge bills for commission to the tune of Rs. 45.67 lac and Rs.106.51 lac on behalf of M/s V-soft services Pvt. Ltd. and M/s DMC Education Ltd. respectively had been raised on Jhanvi Gifts and Ads and Ashana Enterprises during the F.Y. 2010-11 among others.*

*4.2 The Committee thus was of the view that in light of above and keeping in view the findings in the investigation report of SFIO, it was evident that although the Respondent was managing and controlling the affairs of these three Companies, he could neither reasonably justify the nature of the entries of commission transactions nor provide the details relating to the management of the entities introduced by him to Ashana Enterprises and Jhanvi Gifts & Ads. Thus, the said Companies were basically Companies used by him in illegal business of providing accommodation entries to the local management of RIC in the falsification of the books of account of the Company”.*

5. Upon consideration of submissions of the Respondent, the Committee agreed with above findings and was of the considered view that the Respondent was actively involved in illegal business of providing accommodation entries. Accordingly, ends of justice can be met if severe punishment is given to him in commensurate with his above misconduct.



**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

(Set up by an Act of Parliament)

[PR 317/14/DD/336/2014/DC/490/2016]

6. Thus, keeping in view the facts and circumstances of the case as aforesaid, the material on record, submissions of the Respondent before it, this Committee orders that the name of the Respondent i.e. CA. Shri Kishan Gupta (M. No. 084077) be removed from register of members for a period of One (01) Year and a fine of Rs. 1,00,000/- (Rupees One Lakh only) be also imposed upon him to be paid within 30 days of receipt of this order.

Sd/-  
(CA. NIHAR N JAMBUSARIA)  
PRESIDING OFFICER

Sd/-  
(SHRI ARUN KUMAR, IAS (RETD.)  
GOVERNMENT NOMINEE

Sd/-  
(MS. NITA CHOWDHURY, IAS (RETD.))  
GOVERNMENT NOMINEE

Sd/-  
(CA. (DR.) DEBASHIS MITRA)  
MEMBER

Sd/-  
(CA. JAY CHHAIRA)  
MEMBER



**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

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[PR 317/14/DD/336/2014/DC/490/2016]

**DISCIPLINARY COMMITTEE [BENCH-III (2019-20)]**

**[Constituted under section 21B of the Chartered Accountants 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 317/14-DD/336/14-DC/490/2016**

**In the matter of :**

**Ms. Richa Kukreja  
Jt. Director (CL), SFIO,  
Ministry of Corporate Affairs  
Govt. of India  
2<sup>nd</sup> Floor, Paryavaran Bhawan  
CGO Complex, Lodhi Road  
New Delhi – 110 003**

**.....Complainant**

**Versus**

**CA. Shri Kishan Gupta  
(M. No. 084077)  
16-B/9, D.B. Gupta Road  
Dev Nagar  
New Delhi-110 005**

**.....Respondent**

**Members Present :**

**CA. Prafulla Premsukh Chhajed, Presiding Officer  
Smt. Anita Kapur, Member (Govt. Nominee)  
Shri Ajay Mittal, IAS (Retd.), Member (Govt. Nominee)  
CA. Debashis Mitra, Member  
CA. Manu Agrawal, Member**

**Parties present :**

- (i) Smt. Deepmala Bagri – Complainant's representative  
Assistant Director (Law)
- (ii) Smt. Smriti Chaturvedi – Counsel for Complainant



**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

(Set up by an Act of Parliament)

[PR 317/14/DD/336/2014/DC/490/2016]

**DATE OF HEARING: 25.07.2019**

**PLACE OF HEARING: New Delhi**

**Allegations of the Complainant:**

1. **Ms. Richa Kukreja, Jt. Director (CL), SFIO, Ministry of Corporate Affairs, Govt. of India, New Delhi** (hereinafter referred to as the “**Complainant**”) has filed complaint in Form ‘I’ dated 20<sup>th</sup> October, 2014 (**C-1 to C-15**) against **CA. Shri Kishan Gupta (M. No. 084077) New Delhi** (hereinafter referred to as the “**Respondent**”). The background of the instant complaint as alleged by the Complainant is as under:-

1.1 The Government of India, Ministry of Corporate Affairs ordered an investigation into the affairs of **M/s Reebok India Company** (hereinafter referred to as the “**RIC**”) and that the affairs of the RIC were investigated by Serious Fraud Investigation Office (SFIO). In its investigation report, it recommended the disciplinary proceedings against the Complainant for his professional misconduct, before ICAI. Accordingly, the Complaint was filed.

The context of allegations made against the Respondent is as follows:

1.2 During the course of investigation into the affairs of RIC, it was revealed that M/s Ashana Enterprises and M/s Jhanvi Gifts & Ads had made payments of large amounts on account of commission to the following Companies:-



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

[PR 317/14/DD/336/2014/DC/490/2016]

	Paying entity	Commission paid to	Amount in Rs.
1	Ashana Enterprises	DMC Education Ltd	96,58,794
1	Ashana Enterprises	IFL Promoter Ltd	58,65,782
3	Jhanvi Gifts & Ads	V-soft Services P Ltd	41,41,095

The Respondent attended the investigation on behalf of the above companies i.e. M/s DMC Education Ltd, M/s IFL Promoter Ltd and V-soft Services P Ltd. He was examined with respect to the transaction executed between these Companies and Ashana Enterprises and Jhanvi Gifts & Ads. It was revealed that the three Companies were controlled by the Respondent which earned substantial commission income from Ashana Enterprises and Jhanvi Gifts & Ads and that the statement of Respondent on oath recorded on 26.12.2012 demonstrated that though no services were rendered by three Companies owned / managed by the Respondent to Ashana Enterprises and Jhanvi Gifts & Ads, even then large commissions were credited which as per the Complainant were nothing but the accommodation entries provided by the Respondent.

1.4 It is stated that the focus of the local Management of RIC was on achieving the Primary Sales Targets set by the global head office and local Management. In order to deceive the Management, it indulged in fudging and fabrication of the accounts of the



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

[PR 317/14/DD/336/2014/DC/490/2016]

Company so as to give a rosy picture of the target. In order to succeed in their evil design key employees of the Company played active part in commission of the fraud. They fudged the accounts wherein alleged entries were used.

**1.5 Against the aforesaid background, it has been alleged against the Respondent as under:**

1.5.1 The Respondent who being a Chartered Accountant, was expected to know all the Statutory provisions, deliberately connived by providing accommodation entries and thus aided the local management of RIC in the falsification of the books of account which did not give the true and correct picture of the affairs of the Company.

**PROCEEDINGS :**

2. The Committee noted that the representative of the Complainant Department along with their authorized Counsel were present in person before it on 25<sup>th</sup> July, 2019. The Committee further noted that neither the Respondent nor any of his authorized representative appeared before it despite notices being served at his professional address by Speed Post AD as well as through e-mail. The Committee further noted the extant matter was fixed and adjourned various times and for this hearing too no communication or request for adjournment was received from the Respondent. It was, accordingly, viewed that several opportunities had been provided to the Respondent but he had not come forward to avail it





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

[PR 317/14/DD/336/2014/DC/490/2016]

and defend case against him. Accordingly, the Committee decided to proceed in the matter on merit and *ex-parte* to the Respondent. On being asked by the Committee, the Complainant's Counsel submitted that she had nothing further to submit than what was already placed on record.

**Findings of the Committee :**

3. The Committee noted that the allegation against the Respondent was that the three Companies which were controlled by the Respondent received large commissions from Ashana Enterprises and Jhanvi Gifts & Ads without rendering any services by the Companies which were nothing but accommodation entries given to the officials of RIC and he thus aided the local management of RIC in the falsification of their books of accounts which did not give the true and correct picture of its affairs.

4. The Committee noted that the Respondent had neither submitted written statement before the Committee on the Prima Facie Opinion of Director (Discipline) in terms of provisions of Rule 18(4) the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 nor appeared before it to defend his case despite providing several opportunities to him which reflects upon the casual approach being adopted by him and the scant respect he has towards ICAI. The Committee while concluding on the matter



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

[PR 317/14/DD/336/2014/DC/490/2016]

expressed a deep concern as regard the attitude of the Respondent.

5. It noted that in the Written Statement sent by the Respondent before the Director (Discipline), he had denied all charges made by the Complainant stating them to be grossly untrue. He also stated that he was neither the statutory auditor of the Companies nor the Managing Director of this Company and being a director, he was not liable for those entries in the books of accounts. He has further alleged that SFIO Authorities had unnecessarily and forcibly taken his submissions.

6. The Committee in this context noted that the Investigation report of SFIO has revealed that **(C-22)** for forever-greening the worsening position of accounts receivable, the top functionaries of RIC resorted to 'In and Out' transactions to show fictitious collection against the accounts of ageing debtors of the Company. The main accomplice in this process was Ashana Group, owned by one Lamba family, who helped the top functionaries of the Company by extending accommodation entries, in booking fictitious collections from sundry debtors. As a result, funds were transferred out of the Company multiple times and re-infused as receipts/realisations against outstanding receivables from sundry debtors. For this purpose, the top functionaries of RIC had arranged Rs 8 crore from Ashana enterprises in the month of December, 2011 to meet collection targets on the pretext of advance against the outstanding ARs of the customers serviced by



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

[PR 317/14/DD/336/2014/DC/490/2016]

Shri Jatin Lamba and thereafter, funds were returned to Ashana Enterprises in January 2012. The report also stated that the Company credited substantial amount of commission in favour of Ashana Enterprises and Jhanvi Gifts & Ads in 2011 and 2012.

7. During the course of Investigation, M/s Ashana Enterprises and Jhanvi Gifts & Ads could not provide sufficient evidence to justify the payment of large commission to them by RIC especially in view of the fact that there was no formal MOU with Jhanvi and MOU with Ashana Enterprises had expired and not renewed beyond 31<sup>st</sup> December, 2010. Accordingly, commission payment was found totally arbitrary in the absence of any supporting evidence of services rendered by either of them. Even the new management of RIC could not provide any basis for payment of commission to these two entities and TDS was also not deducted from commission payments/provision created by RIC, raising serious doubts about authenticity of these payments. These adjustments appear to be for diversion of income amongst various entities within Ashana Group **(C-178)**.

8. The Committee noted that during the course of investigation, it was further observed that Ashana Enterprises and Jhanvi Gifts & Ads for the year 2010-11 credited large amounts on account of commission to the following companies which were owned and controlled by the Respondent **(C-182):-**

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

[PR 317/14/DD/336/2014/DC/490/2016]

entity	paid to	in Rs.
Ashana Enterprises	DMC Education Ltd	96,58,794
Ashana Enterprises	IFL Promoter Ltd	58,65,782
Jhanvi Gifts & Ads	V-Soft Services P Ltd.	41,41,095

9. The Committee noted the statement of the Respondent on oath u/s 240(2) of the Companies Act, 1956 on 26.12.2012, wherein it was stated by him that **(C-182 & C-183)** he was fully aware of the business transactions of the aforesaid three Companies as he was managing and controlling the affairs of all the three Companies on day to day basis which had earned commission income in the FY 2010-11; Rs 58.65 lacs and Rs 96.58 lacs from Ashana Enterprises in IFL Promoters and DMC Education respectively. As per him, these companies introduced clients to Ashana Enterprises and Jhanvi Gifts who required gift items for their business promotion and employees. There was no written agreement and the commission varied from 5 to 10% on sale to these parties.

10. The Committee, however, pertinently noted the further deposition of the Respondent wherein he stated as below **(C-183)**:

- Generally these companies buy gift items every year and he did not have any specific information on their purchases and hence, was not in a position to give any specific lead. He does not know what gift items they purchased.



# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PR 317/14/DD/336/2014/DC/490/2016]

- He did not provide any specific leads for the business of the Ajit Trading, Innovative, Abbott, Akzo Noble, Bestochem, Countrywide, Glenmark, etc. to Shri Jatin Lamba. He did not have any specific leads which he could have given to Jatin Lamba, but all of them were general order suppliers.
- He did not know the business carried out by Ajit Trading, Abott or Innovative whereas his three companies earned substantial commission on the sales by Ashana Enterprises / Jhanvi Gifts Ads.
- Neither he was aware of their offices nor their telephone numbers. He did not have any information regarding their management or controlling directors. He only gave their names to Jatin Lamba for him to follow up for business.
- He even was not aware of the partners / proprietors of Ashana Enterprises and Jhanvi Gifts & Ads.
- Though DMC earned commission of Rs 96 lacs in 2010-11 but it had not received the commission from Jatin Lamba as he withheld the commission money by disputing the services rendered by DMC and no legal action was taken and nothing was brought in writing”.

11. On perusal of the above, the Committee noted that firstly the three companies controlled by him recorded substantial commission income from Ashana Enterprises / Jhanvi Gifts just for telling the name of the entities like Ajit Trading, Innovative Incentives and Events Pvt. Ltd., Akzo Noble, etc. Further, though he was an introducer he was not aware of the office addresses, telephone numbers or about the management of those entities which were the clients introduced to earn commission. The Committee noted the vague arrangement between the



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

[PR 317/14/DD/336/2014/DC/490/2016]

Respondent's firm, firms of Lamba family and RIC and further noted that though the Respondent had contended that the Complainant-Department had forcibly taken his statement but he had not brought on record any retraction filed by him after it. Hence, the Committee agreed with the findings as mentioned in the Investigation Report **(C-183)** that no services were rendered by the three companies to Ashana Enterprises / Jhanvi Gifts Ads and the commission so paid was nothing but the accommodation entries provided by the Respondent.

12. The Committee further noted that the Investigation report also revealed that no action was taken by DMC for realization of the huge amount of Rs 96 lacs due from Ashana Enterprises and also that as per the books of account of Ashana Enterprises for 2010-11, it was observed that Tata Teleservices Ltd., Innovative Incentives and Events Pvt. Ltd. had opening balances as on 01.04.2010, which meant that the Ashana Enterprises already had business relations with them **(C-10)**. In other words, the contention of the Respondent of having introduced such client was not valid. In this regard, it was noted that when the Respondent was specifically asked as to how he could say that he introduced them to Ashana Enterprises and Jhanvi Gifts & Ads and thereafter earned commission thereof for the same, he could not give any convincing reply beside simply stating that he introduced the said company and did not know about their old business which again demonstrated **(C-11)** that actually no services were being rendered by his three companies to Ashana Enterprises and Jhanvi Gifts &



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

[PR 317/14/DD/336/2014/DC/490/2016]

Ads and the commission so paid was nothing but the accommodation entries provided by the Respondent more so when huge bills for commission to the tune of Rs. 45.67 lac **(R-22)** and Rs.106.51 lac **(R-30)** on behalf of M/s V-soft services Pvt. Ltd. and M/s DMC Education Ltd. respectively had been raised on Jhanvi Gifts and Ads and Ashana Enterprises during the F.Y. 2010-11 among others **(R-22, R-30 to R34)**.

13. The Committee thus was of the view that in light of above and keeping in view the findings in the investigation report, it was evident that although the Respondent was managing and controlling the affairs of the aforesaid three companies, he could neither reasonably justify the nature of the entries of commission transactions nor provide the details relating to the management of the entities introduced by him to Ashana Enterprises and Jhanvi Gifts & Ads. Thus, the said companies were basically companies used by him in illegal business of providing accommodation entries to the local management of RIC in the falsification of the books of account of the Company. Accordingly, it is felt that since the alleged misconduct is in relation to his duties as an employee being the Director of the IFL Promoter Ltd, M/s V-soft services Pvt. Ltd. and M/s DMC Education Ltd, he is accordingly held guilty of professional misconduct falling within Clause (1) of Part II of Second Schedule read with Chapter II of Council General Guidelines 2008 1-CA(7)/02/2008 dated 08th August, 2008.

14. It may be stated that principle of professional behavior given in Code of Ethics imposes an obligation on professional accountants to comply with relevant laws and regulations of the land as well as the profession and avoid



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

[PR 317/14/DD/336/2014/DC/490/2016]

any action that may bring discredit to the profession. The professional accountants should act in a manner consistent with the reputation of the profession and refrain from any conduct which might bring disrepute to the profession. It is viewed that involvement of the Professionals in such activities of creating false entries is likely to create a wrong impression and might tend to lower the image of the profession in the public eye. As such, the alleged act of the Respondent to provide accommodation entries renders him prima facie guilty of Professional Misconduct falling within the meaning of Clause (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949.

**Conclusion :**

15. Thus in conclusion, in the considered opinion of the Committee, the Respondent is GUILTY of professional and other misconduct falling within the meaning of Clause (1) of Part II of the Second Schedule and clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

**Sd/-**  
**(CA. Prafulla Premsukh Chhajed)**  
**Presiding Officer**

**Sd/-**  
**(Anita Kapur)**  
**Member (Govt. Nominee)**

**Sd/-**  
**(Shri Ajay Mittal)**  
**Member (Govt. Nominee)**

**Sd/-**  
**(CA. Debashis Mitra)**  
**Member**

**Sd/-**  
**(CA. Manu Agrawal)**  
**Member**





**THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA**

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[PR 317/14/DD/336/2014/DC/490/2016]

**Date : 15<sup>th</sup> October, 2019**

**Place : New Delhi**