



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

PR/180/2015-DD/172/2015/BOD/235/2016

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 Sumit Gururani, New Delhi**

...Complainant

**-Vs.-**

**CA Mayur Batra (M. No. 096613),  
M/s Mayur Batra & Co. (FRN No. 018694N), New Delhi**

...Respondent

**[PR/180/2015-DD/172/2015/BOD/235/2016]**

**MEMBERS PRESENT: (Through video conferencing)**

**CA. Prasanna Kumar D., Presiding Officer  
Mrs. Rani Nair, (IRS, Retd.), Government Nominee  
CA. Satish Kumar Gupta, Member**

**Date of Final Hearing: 28<sup>th</sup> October, 2021**

1. The Board of Discipline vide Report dated 11<sup>th</sup> February, 2021 held that **CA. Mayur Batra (M. No. 096613)** is Guilty of Professional Misconduct falling within the meaning of Items (5), (6), (7) and (11) 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. Mayur Batra** and communication dated 21<sup>st</sup> October, 2021 was addressed to him thereby granting him an opportunity of being heard in person and/or to make written representation before the Board on 28<sup>th</sup> October, 2021. Thereafter, he submitted his written representation dated 27<sup>th</sup> October, 2021 on the Findings of the Board.

3. The Board noted that **CA. Mayur Batra** did not appear before the Board on 28<sup>th</sup> October, 2021. **CA. Mayur Batra** vide email dated 27<sup>th</sup> October 2021 informed that due to ongoing medical treatment of his wife in Dubai, it will not be possible for him to be present in person before the Board and requested for exemption from personal appearance. Since the written representation of the Respondent was already on record, the Board decided to consider the case of the Respondent for award of punishment.

4. **CA. Mayur Batra** in his written representation inter-alia submitted as under:-

- a. He has surrendered his membership of ICAI by voluntarily opting to have his name removed from the Register of Members as well as the Certificate of Practice, effective from 5<sup>th</sup> February, 2021, due to medical emergency in his family which has led to not only



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- trauma and agony but has also caused deterioration of his own physical and mental health.
- b. Due to ill fate, unavoidable and stressful circumstances through which Respondent has been passing, he couldn't even properly represent his case as he has mostly been abroad for medical treatment of his wife and could not afford to leave her alone to attend the proceedings.
- c. The Respondent requested to examine the written submissions and evidences which were placed on record during the course of Disciplinary proceedings and take a compassionate and considerate view as he had no malafide intent to disobey or violate the Rules and Regulations (including Code of Ethics) of the ICAI. It was merely a case of omissions which occurred inadvertently and furthermore, these lapses were procedural in nature causing no harm or loss or financial damage to anyone or bring any dispute to the profession.
- d. The Respondent further requested for a lenient view in the present case.
5. The Board has carefully gone through the facts of the case and also the written representation of **CA. Mayur Batra**.
6. As regards the plea raised by the Respondent in his written representation that since he has already surrendered his membership with the Institute alongwith Certificate of Practice, whether the Board would like to view the conduct of its former member, the Board took into view the provisions of Rule 2(1)(g) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 wherein the term Member is defined as under:  
*"Member" means an associate or fellow member of the Institute and includes a person who was a member of the Institute on the date of the alleged misconduct, although he has ceased to be a member of the Institute at the time of filing the complaint, initiation of the inquiry or thereafter."*
- Accordingly, the Board held that it is well within its powers to award punishment to the Respondent on his misconduct as coming out in its Findings as he was a Member of the Institute at the time of alleged misconduct.
7. Further, as per the Findings of the Board as contained in its report, the Board viewed that the conduct of the Respondent to use his Firm's website/ Youtube platform in order to solicit clients/ professional work, advertisement of professional attainments/ services and issue of visiting card to his employees/ managers and other representatives with clear mention of independent member of M/s. B K R International clearly brings out the misconduct alleged against the Respondent and thus, the Respondent is guilty of Professional Misconduct falling within the meaning of Item (5), (6) and (7) of Part I of the First Schedule to the Chartered Accountants Act 1949. Further, as regards the charge falling within the meaning of Item (11) of Part I of the First Schedule, the Respondent had shown his occupation as "Business" in the incorporation documents available under Public Documents on the



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MCA Portal from where it can be inferred that the Respondent was involved in the business while holding full time Certificate of Practice and thus, was required to seek prior permission of the Council before engaging himself into the business other than the profession of accountancy. Accordingly, the Respondent was also held guilty for the said charge. Thus, it has already been held that **CA. Mayur Batra** is Guilty of Professional Misconduct falling within the meaning of Items (5), (6), (7) and (11) of Part I of the First Schedule to the Chartered Accountants Act 1949.

8. Upon consideration of the facts of the case, the consequent misconduct of **CA Mayur Batra (M. No. 096613)** and keeping in view his written representation before it, the Board decided to remove the name of **CA. Mayur Batra (M. No. 096613)** from the Register of Members for a period of 03 (three) months and also imposed a fine of Rs. 1,00,000/- (Rupees One Lakh only) upon him payable within a period of 60 days from the date of receipt of the Order.

Sd/-  
**CA. PRASANNA KUMAR D.**  
(PRESIDING OFFICER)

Date: 1<sup>st</sup> February, 2022

प्रमाणित सत्य प्रतिलिपि / Certified true copy  
मुकेश कुमार मिश्रा / Mukesh Kumar Mittal  
सहायक सचिव / Assistant Secretary  
अनुशासनात्मक 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 Nagar, Shahdra, Delhi-110032

**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/180/15-DD/172/2015/BOD/235/2016]**

**CORAM:**

CA. Prasanna kumar D., Presiding Officer (physically at ICAI Bhawan, Vishwas Nagar, New Delhi)  
Mrs. Rani Nair, (IRS, RETD.), Government Nominee (attended through VC)  
CA. Durgesh Kumar Kabra, Member (physically at ICAI Bhawan, Vishwas Nagar, New Delhi)

**In the matter of:**

**Shri Sumit Gururani,  
G-14, Gaurav Apartment, SFS Flats,  
Saket, Near Golf View Apartments,  
Above Yes Bank ATM,  
New Delhi-110 022**

**.....Complainant**

**-Vs.-**

**CA Mayur Batra (M. No. 096613),  
M/s Mayur Batra & Co. (FRN No. 018694N),  
Chartered Accountants,  
7, Barakhamba Road,  
New Delhi-110 001**

**.....Respondent**

**DATE OF FINAL HEARING : 18<sup>th</sup> January, 2021**

**PLACE OF HEARING : New Delhi/ through video conferencing**

**PARTIES PRESENT:**

**Complainant : Shri Sumit Gururani (In person)  
Counsel for the Respondent : CA. A. P. Singh (through Video Conferencing)**

**JD**

**Findings:****Background of the case:**

## 1. The brief background of the case is as under:-

- (a) The Respondent firm is a proprietary Chartered Accountant Firm since 16.12.2002 and the Respondent is a COP holder since 12<sup>th</sup> August, 1998. As per records, the Respondent is a partner in M/s K L Seth & Associates, Chartered Accountants since 23.01.2010 and acting as a Proprietor in the Respondent Firm since 16.12.2012. The Respondent is actively and whole time involved in the services of Real Estate, Commodities Markets, Management consultants, Stock Brokers, Investment Advisors, Business Consultants, Steel Processing, Trading and in Jewels business.
- (b) The Respondent is the whole time executive director and majority shareholder in the following private limited Companies. He is whole time director in these Companies as there are mostly 2 directors in these Companies and furthermore Directors' report, Balance Sheet, Notices to AGM and Annual Reports of these Companies had been signed by him:

S. No	CIN	Name of the Company	Original date of appointment	Date of cessation	Company status
1.	U36101DL2001PTC112337	PUG COMMODITIES PRIVATE LIMITED	06/09/2001		Active
2.	U45201DL2001PTC112358	SAB REAL ESTATES PRIVATE LIMITED	07/09/2001		Active
3.	U70101DL2001PTC112888	ABMB REAL ESTATES PRIVATE LIMITED	19/10/2001		Active
4.	U70101DL2001PTC112889	MSB REAL ESTATES PRIVATE LIMITED	19/10/2001		Active
5.	U51109DL1988PTC033320	LANCERS CONSULTANTS PRIVATE LIMITED	15/07/2002		Active
6.	U67120DL2003PTC121534	PUG SECURITIES PRIVATE LIMITED	29/07/2003		Active
7.	U74899DL1985PTC022710	PUG STOCK BROKERS PRIVATE LIMITED	13/06/2005		Active
8.	U74140DL2007PTC168520	MBC GLOBAL ADVISORY SERVICES INDIAPRIVATE LIMITED	21/09/2007		Active
9.	U74920DL2007PTC168555	PROACTIVE UNIVERSAL INVESTMENT ADVISORS PRIVATE LIMITED	21/09/2007		Active
10.	U51100DL2007PTC169046	MBC Business Consultants and Advisors Private Limited	05/10/2007		Active
11.	U05004DL2007PTC169044	RAJASTHAN PRIME STEEL PROCESSING CENTERPRIVATE LIMITED	05/10/2007	16/11/2007	Active
12.	U11100DL2008PTC181537	PLUTO ENTERPRISES PRIVATE LIMITED	30/07/2008		Active
13.	U52601DL2008PTC183449	PROACTIVE UNIVERSAL TRADING COMPANY PRIVATE LIMITED	03/10/2008		Active
14.	U74140DL2001PTC112890	RMS CONSULTANTS PRIVATE LIMITED	13/03/2009		Active
15.	U74999DL2009PTC188431	SUBHLAXMI JEWELS PRIVATE LIMITED	16/03/2009		Active

16.	U70101DL2008PTC177708	MCHK REAL ESTATE PRIVATE LIMITED	01/03/2010		Active
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- (c) The Website of the Respondent firm i.e. [www.mayurbatra.com](http://www.mayurbatra.com) is against the guidelines made by the Council of the ICAI as:
- Picture of Taj Mahal of India is there.
  - Picture of certain foreign persons are there.
  - Presence of video lectures/seminar of foreign national/Japanese. It can be deemed in the nature of Advertisement (as the matter is in Japanese Language).
- (d) The Respondent is having 9 offices in India, one office in Japan and one office in Dubai.
- (e) Among several Companies in India, Ms. Akiko Yamane (A Japanese National) is representing the Respondent firm in the capacity of Associate Director and Representative in Japan. The Complainant raised a query about how a foreign national became a representative of CA Firm and as such it is a clear solicitation of work by the Firm. Ms. Akiko Yamane is also using email of [japandesk@mayurbatra.com](mailto:japandesk@mayurbatra.com) which further proves the nexus between the Respondent firm and her.
- (f) Another Japanese national Mr. Ryotaro Nakano is holding the post of executive Japanese Business desk for Mayur Batra & Co., Chartered Accountant. These Japanese persons are seen in various Japanese Companies soliciting, marketing the services for the Respondent firm.
- (g) The gravity of the violations can be established by the fact that the Respondent is holding Certificate of Practice and also carrying on these other business for more than 10 years. It is a continuous nature of defaults over a period.

#### Charges alleged :

2. The following charges are alleged against the Respondent:-
- The Respondent was actively involved in various businesses, also working as whole time director in various private Limited Companies with nine offices in India and one office each in Japan, Dubai. The Respondent was acting as a director /designated partner in various Companies dealing in real estate, commodities, securities, consulting, jewellery, investment and advisory business as per the MCA data dated 25<sup>th</sup> July 2015 and thus, liable within the meaning of Item (11) of Part I of First Schedule.
  - The website of the Respondent firm shows global locations, foreign clients, picture of the Taj Mahal with clientele of 200 Corporate and fortune 500 Companies written on the picture showing advertisement in the form of banner and revealing secrecy of the matters to the public against the guidelines of the ICAI. Accordingly,

the Respondent has secured professional business through the services of a person who is neither his employee nor his partner and thus, liable within the meaning of Item (5) of Part I of First Schedule.

- (c) The Respondent through the use of said website of his firm and by use of visiting cards of his employees, representatives and managers solicit clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means and thus, liable within the meaning of Item (6) of Part I of First Schedule.
- (d) The Respondent through the use of said website also advertises his professional attainments/ services/ used designation/ expressions other than Chartered Accountant on professional documents/ visiting cards of his employees/ managers and other staff and thus, liable within the meaning of Item (7) of Part I of First Schedule.

The Board in its meeting held on 4<sup>th</sup> July, 2016 considered the prima-facie opinion dated 16<sup>th</sup> April, 2016 of the Director (Discipline) along with the Complaint, Written Statement of the Respondent and Rejoinder of the Complainant and concurred with the reasons given against the charge(s) and thus, agreed with the prima-facie opinion of the Director (Discipline) that the Respondent is GUILTY of Professional Misconduct falling within the meaning of Clauses (5), (6) and (7) of Part-I of the First Schedule to the Chartered Accountants Act, 1949. The Board also noted that although in Para 7.2 of the Prima Facie Opinion, observations with respect to the allegation specified at Para 2(a) above have been made, no conclusive opinion as to whether the Respondent has been held prima facie guilty/not guilty has been specified therein. Since the said allegation was a part of the complaint in Form 'I' and the adjudicating authority in the instant disciplinary proceedings is the same, the Board, keeping in view the principle of natural justice, decided to also examine the conduct of the Respondent in respect of allegation specified at 2(a) above. Accordingly, the submissions of both the parties with respect to misconduct falling within the meaning of Item (11) of Part I of the First Schedule to the Chartered Accountants Act, 1949 have also been considered while arriving at findings in the instant case.

**Proceedings held:**

- 3. At the hearing held on 5<sup>th</sup> November, 2020 the Board noted that the Complainant was present before it physically and the Respondent alongwith his Counsel was present through video conferencing. Further to the hearing held in the case on 29<sup>th</sup> October 2020, the Complainant and the Counsel for the Respondent made their respective submissions before the Board. Further, cross-examination of the parties was conducted with the permission of the Board.

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Considering the submissions of the parties, the Board adjourned the hearing in the case with the following direction:

To the office-

1. To call clarification from the Members and Students Section :
  - (a) Whether a member can open a Branch without a branch in-charge.
  - (b) Can a practising member/firm have another office within the same city and within a radius of 50 metres?
  - (c) Whether a firm can designate its place of operation as Office or the same will be known as Branch.

To the Respondent:

- (a) To provide the content which was available before and after hacking of the website of the Respondent and the Financial Statement of M/s Mayur Batra & Co. during the relevant period.
4. In compliance of above directions of the Board, information from Member Student Section was sought which was submitted vide email dated 15<sup>th</sup> January, 2021 and the same is reproduced hereunder:

*"(a) whether a member can open a Branch without a branch incharge ?*

*Reply: No, a member cannot open a Branch without a Branch In charge.*

*(b) Can a practicing member/firm have another office within the same city and within a radius of 50 metres ?*

*Reply: Yes, a practicing member can have another office within the same city and within a radius of 50 meters.*

*(c) Whether a firm can designate its place of operation as Office or the same will be known as Branch?*

*Reply: The same will be known as Second Office of the firm."*

The Respondent vide email dated 26<sup>th</sup> October, 2020 provided his submissions/clarifications.

5. Thereafter, at the hearing held on 18<sup>th</sup> January, 2021 wherein the Complainant was physically present and the Counsel for the Respondent was present through video conferencing, the Board on consideration of the documents and submissions on record, decided to conclude the proceedings with the following direction:

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To the Complainant:

1. To send the URL to the Respondent for submission of his comments thereon, if any.

To the Respondent:

1. To provide the content which was available before and after hacking of his website and the financial statement of Mayur Batra & Co. during the relevant period.

Thus, the decision on the conduct of the Respondent was kept reserved by the Board.

In compliance of the above directions, the Complainant vide email dated 18<sup>th</sup> January, 2021 submitted the details of the URLs and the Respondent vide email dated 1<sup>st</sup> February, 2021 submitted his response.

6. Thereafter, the Board at its meeting held on 11<sup>th</sup> February, 2021, on consideration of the documents and submissions on record, took a decision on the conduct of the Respondent.

**Brief of submissions of Respondent:**

7. The Board noted that the Respondent in his defence, inter-alia, submitted as under:-
  - i. The Clause (5) of Part I of First Schedule refers to the word "secures" and one should be liable if he has actually secured any professional business through such means that are not open to a Chartered Accountant. The said clause must be read along with contents of Clause 2 and 3 of Part I of First Schedule which states that a Chartered Accountant in practice shall be guilty of professional misconduct if he "pays or allows or agrees to pay or allow" or "accepts or agrees to accept". Thus, the intent in Clause 2 and 3 is such that even if the Chartered Accountant concerned has not actually paid or allowed, or has not actually accepted any amounts as referred in those two specific clauses, he could still be guilty of professional misconduct if he had agreed to pay/allow or agreed to accept. In Clause 5, there is no such use of the words "agrees to". The Complainant has not brought forward any specific instance of any particular professional engagement which has been secured by the Respondent through means which are not open to a Chartered Accountant. Certain individuals were employed merely to maintain contact with the existing

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clients of the Respondent for the purposes of ensuring seamless communication only.

- ii. The Clause (6) of Part I of First Schedule refers to the word "solicits" and it must first be established that the concerned member has actually solicited clients or professional work through a circular, advertisement, personal communication or interview. The Complainant has not produced any proof or evidence of any circular or advertisement or personal communication having been issued by the Respondent which led to the solicitation of clients. The Complainant has merely referred to certain employees in Japan; that particular employee had been retained only for the purposes of ensuring seamless communication with the Japanese clients. The employees of the Respondent were discharging their functions as translators and interpreters.
- iii. The Clause (7) of Part I of First Schedule refers to the word "advertises" and one can be held liable under said Clause firstly, if he advertises any professional attainments of services; second if he uses any designations or expressions on any professional documents, visiting cards, letterheads or signboards as a not permissible to a Chartered Accountant specifically in view of the contents of this particular clause. The Complainant has not brought forward any proof or evidence of the Respondent having advertised any of his professional attainments of services. Further, the Complainant has not also brought forward any proof or evidence in respect of any designation or expressions other than the word Chartered Accountant having been used by the Respondent on professional documents, visiting cards, letterheads or signboards as permitted by the law. The Respondent further referred to the following judicial pronouncement:

Madhya Pradesh High Court – In the matter of Council Of The Institute Of ... vs C.H. Padliya And Co. And Ors.

*"The onus is on the authority or the person that charges or complains against the chartered accountant of any misconduct to prove the same beyond reasonable doubt by adducing legal and satisfactory evidence, oral and documentary."*

- iv. Regarding the website Guidelines laid down by Council of ICAI, Section 27 of the Chartered Accountants Act, 1949 (Maintenance of Branch Office), Clause (6) of Part I of the First Schedule and Clause (2) of Part IV of the First Schedule of Chartered Accountants Act, 1949, the Respondent referred to the following judicial pronouncements:

M.V. Bijlani vs Union Of India & Ors

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*"It is true that the jurisdiction of the Court in judicial review is limited. Disciplinary proceedings, however, being quasi-criminal in nature, there should be some evidences to prove the charge. Although the charges in a departmental proceedings are not required to be proved like a criminal trial, i.e., beyond all reasonable doubts, we cannot lose sight of the fact that the Enquiry Officer performs a quasi-judicial function, who upon analyzing the documents must arrive at a conclusion that there had been a preponderance of probability to prove the charges on the basis of materials on record. While doing so, he cannot take into consideration on any irrelevant fact. He cannot refuse to consider the relevant facts. He cannot shift the burden of proof. He cannot reject the relevant testimony of the witnesses only on the basis of surmises and conjectures. He cannot enquire into the allegations with which the delinquent officer had not been charged with."*

S. Ganesan vs A.K. Joscelyne on 19 April, 1956 by the Honourable Calcutta High Court

*"The position, therefore, seems to be that in view of the absence of any charge of negligence and the withdrawal of the particular allegation, it is not possible to hold that the charges actually framed had been established, although, as I have found, the respondent does not appear to me to have acted with reasonable care."*

- v. Regarding the advertisement guidelines, the same include certain other conditions which are contained in its Para 4. The Respondent did not issue any advertisement, and the Complainant has provided no proof of any advertisement either. However, since the word "write up" has been defined in the Guidelines as "'write up" means the writing of particulars according to the information given in the Guidelines setting out services rendered by the Members or firms and any writing or display of the particulars of the Member(s) in practice or of firm(s) issued, circulated or published by way of print or electronic mode or otherwise including in newspapers, journals, magazines and websites (in Push as well in Pull mode) in accordance with the Guidelines", the Respondent deals with the inserts on the website to specifically state that any write up on the website posted by Respondent did not bring the profession into any disrepute. The write up does not claim any superiority over any other member or firm. There is nothing in the nature of indecent or sensational content and there is no question of the profession having been brought into disrepute. There are no testimonials or endorsement concerning the members. There is no such content which could have caused any person to misunderstand and/or to be deceived. There is nothing in the write up that violates the provisions of the Act, Rules and the Regulations. No names of the

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clients, past or present, have been included. The write up did not contain matter in fonts that exceeded the font size 14. The write up did not contain any information beyond what is contained in para three of the Guidelines. There was no mention of any other achievements or awards or any other position held by the Respondent.

- vi. Regarding maintenance of branch offices by the Respondent, for any location to be considered as an office of a professional chartered accountant, it must be one where a name board is fixed or where such place is mentioned in any letterhead or other documents as a place of business. The Respondent has repeatedly submitted that the locations at Ahmedabad, Chennai, Bangalore, Pune, Tokyo and Dubai did not have any name board affixed outside the specific building or apartment, and any document did not contain reference to those locations as a place of business. Further, the location only at 7, Barakhamba Road, New Delhi-110001 carried a name board of the firm and the address of this location appeared on various documents of the firm; the other locations at New Delhi served the purpose of storage or record keeping for internal purposes only. Each of the copies of the visiting cards of the various individuals appearing on the page contains the address of the firm as disclosed to the Institute.
- vii. With regard to details on website of firm before and after hacking, the Respondent submitted that it does not have any access to the hacked website referred by the Complainant. The footprints given by Complainant showed a picture of Taj Mahal and some other pictures/ photographs, tagline (200 Corporates including Fortune 500 companies), description of Corporate Profile/ About us of the Respondent, which are an outcome of cyber offences. All these are added by some hacker and the same is being investigated by Cyber Cell of Delhi police.
- viii. The Respondent further submitted separate application with Financial Statements for year ended on 31/03/2016, 31/03/2017 & 31/03/2018 and requested to not to share his financials with the Complainant to protect his proprietary/ confidential information.

Since, the documents relied upon by the Board while dealing with the case before it are to be necessarily shared with both the parties to the case, keeping in view the request of the Respondent, the aforesaid documents at point [7(viii)] above were not shared with the Complainant and were not taken into view by the Board while arriving at its findings.

8. The Board also noted the following submissions made by the Complainant:-

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- i. The Complainant had submitted all the evidence regarding violations of Website guidelines, Maintenance of offices without approval or notification to ICAI and running multiple business domains by Respondent at the initial time of submission and during the course of proceedings as well. Since these defaults are continuing in nature till date so submission of these videos on YouTube is fully according to the established law. These are the videos made by Respondent and their affiliates and are in Public domain itself.
- ii. The prima facie view was naturally made on the basis of evidence brought before the Board in the form of Visiting cards of Japanese Nationals and other evidence as was available on the website of Respondent at that point of time. Disowning of websites and making Cyber Cell complaint after substantial period over years and after filing of extant complaint itself raises doubt on the intention of the Respondent.
- iii. Since, the Respondent is director/shareholder in over 10 plus private limited companies at present which itself raises doubt on the full time practice of the profession of Chartered accountant. The theory of Director simplicitor doesn't arise in these cases as in many companies he, himself along with his family members are the director of these companies. It's a clear proven fact that what cannot be done directly also cannot be done indirectly.
- iv. The Complainant has also referred to Videos available in the public domain in which Respondent appeared and also promoted his services (Like Audit, Accountancy and attestation services) and also mentioned as Group Founder of MBG and in Video no 4, full-fledged promotion of various Services, location of offices was done through the use of the Japanese nationals.
- v. The Complainant vide email dated 18<sup>th</sup> January, 2021 submitted the following links for videos referred by him at the time of hearing:-

You tube link

[https://www.youtube.com/results?search\\_query=mbg+corporate+services](https://www.youtube.com/results?search_query=mbg+corporate+services)

Introduction

1. MBG Corporate Services

<https://www.youtube.com/watch?v=qFZ2nwgN0RE>

(This video at the start tells Mayur Batra Group(MBG) then mentions all the services including Audit, Attestation etc.)

2. Accounts and auditing associations

<https://www.youtube.com/watch?v=RiaZ5v7Tm6Y>

( looking for audit, Looking for taxation services)



3. MBG corporate services Timeline

<https://www.youtube.com/channel/UCsgQCE66Cgn9O6mH1r7Cl6g>

(This video also shows all the details also mentions Audit and certification)

Also mentions the word legal services which is prohibited to use according to BCI guidelines, liable for complaint)

4. MBG Corporate Services Japan

[https://www.youtube.com/watch?v=L5q-Hm9LMfo&list=PLN1Pu0T9S9SGV0B6WIXs\\_VkZpagHKF2vG](https://www.youtube.com/watch?v=L5q-Hm9LMfo&list=PLN1Pu0T9S9SGV0B6WIXs_VkZpagHKF2vG)

(This videos shows full name of persons, In Mayur Batra & Co, Chartered accountants, Services offering details and location of offices)

**Observations and Findings of the Board:**

9. The Board on consideration of the submissions of the parties and other documents available on record observed as under:-
- a. With regard to the charge of violation of Council Guidelines with respect to the content on the website of the Respondent firm, the Board noted that the Respondent took the plea that the material available on his website "www.mayurbatra.com" was not uploaded by him but by some hacker and has taken the said plea in his further written statement dated 26<sup>th</sup> October, 2020 i.e. before the Board of Discipline post communication of the decision of the Board on the Prima Facie Opinion of the Director(Discipline) and not before the Director(Discipline) at the Prima Facie stage. The Respondent further produced on record copy of complaint filed with Cyber Cell of Delhi Police dated 18/01/2018 regarding hacking/ fabrication of erstwhile website/ data and its misuse/ misrepresentation on the Internet. The Board on perusal of the said Police Complaint observed that the said complaint was made only to counter the extant complaint dated 3<sup>rd</sup> August, 2015. Further, on perusal of printout of the website page, it is observed that the contents available on the website are with respect to promotion of business/ profession of the Respondent. The Board was of the view that the submission of the Respondent that he became aware of hacking of his website through the instant complaint is not acceptable as the Respondent Firm is an established Chartered Accountants firm and ought to have stringent controls in place to ensure that only the information which is warranted is available in public domain. Further, the said contention of hacking was not raised by the Respondent in his Written Statement dated 5<sup>th</sup> November, 2015 and during the initial stage of

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proceedings in the matter. Thus, the said defence taken by the Respondent after lapse of considerable period of time seems to be an afterthought to save his skin from the extant proceedings.

- b. The Board noted that website of the Respondent Firm shows details of Mayur Batra & Co. wherein the Respondent was shown as the sole proprietor having nine offices in India, one each in Japan and Dubai. Further, website of the Respondent firm also shows global locations, foreign clients, association with international accounting group BKR International, picture of the Taj Mahal with clientele of 200 Corporate and fortune 500 Companies written on the picture showing advertisement in the form of banner and revealing secrecy of the matters to the public against the Website Guidelines of the ICAI.
- c. The Board, in this regard, also took into view the ICAI Guidelines No. 1-CA(7)/Council Guidelines/01/2008, dated 14th May, 2008 – Guidelines for Advertisement for the Members in practice. The Board observed that the Respondent has violated the Clause 4 “Other Conditions” of the said Guidelines with respect to the following:

*“(ii) The write-up should not claim superiority over any other Member(s)/Firm(s),*

*(v) The write-up should not contain any other representation(s) that may like to cause a person to misunderstand and/or to be deceived and*

*(x) The write-up should not contain any information about achievements/award or any other position held”*

The Board was of the view that the defence raised by the Respondent in his written submissions and at the time of hearing cannot sustain as the advertisement for attracting clients by the professionals is strictly prohibited by the Institute to regulate the conduct of members.

- d. The Board was also of the view that although the Respondent has submitted that the Complainant has not brought forward any specific instance of any particular professional engagement which has been secured by the Respondent through means which are not open to a Chartered Accountant, yet by publishing area of work on the website of Respondent Firm, showing association with the international accounting group BKR International, employing Japanese nationals and opening branch offices in Japan and Dubai, the Respondent firm intended to get the referral work and the said fact indicates towards the intent of the Respondent for securing professional work through means which are not open to Chartered Accountants. The Board was also of the view that use of the words

*and*

'securing .....any professional business' under Item 5 also includes any alleged act to secure professional business by means which are not open to a chartered accountant also covers the 'intent to secure' and whether or not the same is actually received is not material. Further, the Board was of the view that although the Code of Ethics does not provide an inclusive definition of the means which are not open to a chartered accountant to secure professional business, yet, it categorically gives its exclusions that professional business should not be secured through the services of a person who is neither his employee nor a partner.

- e. The Board further observed that the Respondent is a fellow member of the Institute and holding COP since the year 1998 and having vast experience of more than 17 years and thus, it is expected of the Respondent to exercise such professional skepticism as not to display such kind of information on his official website for promoting his practice and should be cautious of such kind of content available on the said domain. It is further not expected from such a senior member of the Institute to get involved in such kind of malpractice and availability of such kind of content on his website. The Board further viewed that the said webpage was used by the Respondent to portray an image of a member of the Institute to the world at large that such kind of content can be displayed without any restriction and the ignorance pleaded by the Respondent is not acceptable. The Board further viewed that the casual approach of the Respondent towards the availability of such kind of content on his Firm's website points out disregard towards the said advertisement/website Guidelines issued by the Institute.
- f. The Board further noted that Complainant has placed on record visiting cards of employees/ directors of the Respondent Firm wherein its independent membership in BKR International, use of Respondent firm's email id by these Japanese Nationals and their designation as 'Executive –Japanese Business Desk'/'Associate Director & Representative in Japan' is clearly evident and the defence of the Respondent that the said employees had been retained only for the purpose of seamless communication with the Japanese clients is not acceptable.
- g. The Board further noted that the visiting cards of the Respondent Firm contains the words "INDEPENDENT MEMBER – B K R INTERNATIONAL" "Representative in Japan" etc. and the same are in violation of recommendations of CESURA (Committee on Ethical Standards and Unjustified Removal of Auditors) which were discussed and agreed upon by Council of ICAI at its 172nd meeting held in January 1995, wherein at Para 3, it was mentioned as under:-



*"that the issue of Indian Firms associating with the foreign firms could be considered by the Special Committee to be constituted for the purpose of examining the issues of (i) reciprocity among professional accounting bodies across the world and (ii) foreign firms of accountants seeking to set up their practice in India without formal registration with the Institute and without being subject to any discipline and control*

*As regards the use of expression/ words "In Association with....." "Associates of ....." "Correspondents of .....", etc., on the stationery, letter-heads, visiting cards and professional document of the firms of C.A.s., the Council agreed with the recommendations of CESURA that the same was not permissible in view of the provisions of Clause (7) of Part I of the First Schedule of the CA Act and decided that it should not be permitted irrespective of whether the name sought to be used is the name of an Indian firm or foreign firm"*

- h. Further, as regard the plea of the Respondent that Clause (6) of Part I of First Schedule refers to the word "solicits" and the Complainant has not produced any proof or evidence of any circular or advertisement or personal communication having been issued by the Respondent which led to the solicitation of clients, the Board was of the view that the Code of Ethics provides that restraint provided under Clause (6) must be practiced so that members may maintain their independence of judgment and may be able to command the respect of their **prospective clients(emphasis provided)** .Thus, the use of the word 'solicit' also implicitly includes all such acts of issue of any circular/advertisement/personal communication etc. which are done with the intent to solicit clients or professional work and whether or not the clients or professional work is received due to such acts is not material.
  - i. With regard to the video links of video recordings available on YouTube platform placed on record by the Complainant vide his email dated 18<sup>th</sup> January, 2021, the Board was of the view that the submission of the Respondent that the law does not allow additional evidence to be introduced at the fag end of the proceedings that are essentially conducted in summary manner in accordance with the prescribed Rules is not tenable since they pertain to the allegations made in Form 'I'. The Board observed that the name and presence of the Respondent is there in the video offering varied services in the name of Mayur Batra Group as its Founder and President, the name of the website of the Respondent [www.mayurbatra.com](http://www.mayurbatra.com), his firm Mayur Batra & Co. , Chartered Accountants and the contents of the said video links amply prove the misconduct on the part of the Respondent.
10. Considering the above, the Board, viewed that the justification offered by the Respondent does not inspire confidence as the Respondent as per above

observations and the conduct of the Respondent to use his Firm's website/youtube platform in order to solicit clients/ professional work, advertisement of professional attainments/ services and issue visiting card to his employees/ managers and other representatives with clear mention of independent member of M/s B K R International clearly brings out the misconduct alleged against the Respondent and thus, the Respondent is guilty of Professional Misconduct falling within the meaning of Item (5), (6) and (7) of Part I of the First Schedule to the Chartered Accountants Act 1949 .

11. As regards the charge falling within the meaning of Item (11) of Part I of the First Schedule, the Board observed that the Respondent is shown as the Managing Director of MB Group, Dubai and the President of Mayur Batra & Co., Chartered Accountants on the website [www.mayurbatragroup.com](http://www.mayurbatragroup.com), he held directorship in around 15 companies with a shareholding of more than 23 % in each of such companies and majority of such companies have only 2 directors. The Board perused the public documents available on the MCA portal with respect to M/s MBC Global and observed as under:
  - a. The Respondent has stated his occupation as "Business" at the time of incorporation of Company in Form I/ MOA filed in September, 2007
  - b. The Respondent authenticated the Financial Statement of the Company in the capacity of its director from the year 2008 till 2013.
  - c. There were only two directors appointed with M/s MBC Global and Respondent was one of them.
12. The Board noted that the Respondent was simultaneously holding Certificate of Practice since 12/08/1998 as per members' database available with the Institute and was also a partner in M/s K.I. Seth & Co. apart from being a proprietor of M/s Mayur Batra & Co..
13. The Board took into view the provision of Regulation 190A vis-à-vis requirement of Clause (11) of Part I of the First Schedule to the Chartered Accountants Act which reads as under:

*"190A - Chartered Accountant in practice not to engage in any other business or occupation*

*A Chartered Accountant in practice shall not engage in any business or occupation other than the profession of accountancy, except with the permission granted in accordance with a resolution of the Council."*

14. The Board clearly observed that the Respondent has shown his occupation as "Business" in the incorporation documents available under Public Documents on the MCA Portal which infers that the Respondent was involved in the business while holding full time Certificate of practice and thus, was required to seek prior permission of the Council before engaging himself into the business other than the profession of accountancy. Accordingly, the Respondent is held guilty for the said charge under Item (11) of Part I of First Schedule. While holding the Respondent guilty under this charge, the Board was also conscious of the fact that the Respondent had been held guilty under this Item of Part I of the First Schedule in another disciplinary case against him and the said fact may also be considered while award of punishment to the Respondent by the Board.
15. Thus, having regard to the attendant circumstances, the evidence put forth during the proceedings and the submissions of the parties on record, the Board is of the considered view that the Respondent is guilty of Professional Misconduct falling within the meaning of Items (5), (6), (7) and (11) of Part I of the First Schedule to the Chartered Accountants Act 1949.

**CONCLUSION:**

16. Thus, the Board of Discipline, is of the considered opinion that the Respondent is **Guilty** of Professional Misconduct falling within the meaning of Items (5), (6), (7) and (11) of Part I of the First Schedule to the Chartered Accountants Act 1949.

Sd/-

**CA. PRASANNA KUMAR D.**  
**(PRESIDING OFFICER)**

**DATE: 11<sup>th</sup> February, 2021**

प्रमाणित सत्य प्रतिलिपि / Certified true copy

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