



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

[PR/339/2019/DD-78/2020/DC/1429/2021]

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.

File No. : PR/339/2019/DD-78/2020/DC/1429/2021

In the matter of :

Mr. Nikhil Ranjan,
Director, M/s. Pixelmate Designs Private Limited,
13th Floor, R-Tech Park, Building-2,
Opposite Western Express High Way,
Goregaon-East
MUMBAI - 400 063

.....Complainant

Versus

CA. Sujatha G (M.No.223373)
M/s Sujatha & Associates (FRN No.0124065)
A7-303, Elita Promenade,
RBI Layout, JP Nagar, 7th Phase,
Bengaluru – 560 078

.....Respondent

Members present:

CA. Aniket Sunil Talati, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
Shri P.K. Srivastava, Member (Govt. Nominee)
CA. Vishal Doshi, Member
CA. Sushil Kumar Goyal, Member

Date of Hearing: 08.04.2022 through Video Conferencing

Place of Hearing: New Delhi

Party Present:

(i) CA. Sujatha G – Respondent (appeared from her personal location)

1. That vide report dated 17th December 2021 (copy enclosed), the Disciplinary Committee was of the opinion that CA. Sujatha G (M.No.223373) was GUILTY of Professional Misconduct falling within the meaning of Item (1) of Part II of Second Schedule, Item (7) of Part I of Second Schedule and Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 for handling book-keeping services of the Company besides being statutory auditor of M/s Pixelmate Designs Private Limited (hereinafter referred to as 'Company') during F.Y. 2014-15 to 2018-19. It is stated that Respondent was appointed to render her



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professional service by conducting regular accounting, statutory audit, service tax calculations, filing of service tax returns, VAT Return preparations, etc. The Respondent used to raise invoices for professional services rendered under the name of different firms in which she was interested and used to forward all the bills through her e-mails.

It was noted that Item (1) of Part II as well as Item (7) of Part I of Second Schedule and Item (2) of Part IV of First Schedule state as under:-

Item (1) Part II of the Second Schedule

PART II: Professional misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he-

(1) contravenes any of the provisions of this Act or the regulation made thereunder or any guidelines issued by the Council

Item (7) Part I of the Second Schedule

PART I: Professional misconduct in relation to chartered accountants in practice

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

(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;

Item (2) Part IV of the First Schedule:

PART IV: Other misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he-

(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. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 25th March, 2022 was addressed to her thereby granting her an opportunity of being heard in person and/or to make a written representation before the Committee on 8th April, 2022 through video conferencing.

3. The Respondent appeared before the Committee on 8th April 2022 through video conferencing and made her oral representations on the findings of Disciplinary Committee. The Committee considered the oral as well as her written representation dated 28th March, 2022. The Respondent inter-alia submitted that the findings of the Committee that the independence of the Respondent, as statutory auditor, was compromised was erroneous and legally untenable in view of the fact that the computerized accounting in Tally undertaken by the Respondent's father did not affect independence and judgement of the Respondent. The Respondent further submitted that mere existence of 'relationship' could not be used to



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judge the independence of the auditor without establishing breach of independence from the reporting of the financial statements. She contended that the the support services being provided by the Respondent and her associates were not in the nature of book keeping/accounting services or writing books of accounts. As per her writing the books of accounts requires judgment and performance of managerial decision making whereas data entry activities were based on inputs provided by management and involved no management or executive actions. Therefore computerized accounting in Tally as rendered by her father was not a prohibited service. Accordingly, the Respondent requested the Committee to condone unintended contraventions, if any, in view of the fact that 'independence' and 'objectivity' of the respondent-auditor were not compromised.

4. The Committee noted that at the outset, the Respondent had admitted that her father had undertaken to provide computerized accounting in Tally to her auditee client i.e. the Company when she was its statutory auditor. It was noted that there were e-mail correspondence between the Complainant and the Respondent/ her associate, various invoices issued in the name of Respondent's father, i.e., Mr. Gopalamani K to the Company in the name of accounting charges for the services rendered for the FY 2015-16, 2016-17 and 2017-18 which indicate that the Respondent was directly through the Respondent Firm and indirectly through the Respondent's another consultancy firm namely M/s Atraiva Consulting Services as well as through her father i.e., Mr. Gopalamani K was providing the accounting services to the Company. Thus, the independence of the Respondent was indeed compromised. With respect to the Respondent's contention that providing the computerised services in Tally could not be considered as writing books, the Committee viewed that in Tally software day to day transactions are entered for recording trasactions in books of accounts hence the contention of the Respondent that such services were not prohibited services is not acceptable. Thus, there was violations of the provisions of the Guidance Note on "Independence of Auditors" as well as Section 144 of Companies Act, 2013. The Respondent was disqualified for being appointed as the Statutory auditor of the Company still she continued to hold position which was in violation of the provisions of Section 141 of Companies Act 2013.

5. The Committee thus viewed that the Professional and Other misconduct on the part of the Respondent has been held and established within the meaning of Item (1) of Part II of Second Schedule, Item (7) of Part I of Second Schedule and Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered that the Respondent **CA. Sujatha G (M.No.223373)** be Reprimanded and a fine of Rs. 20,000/- (Rupees Twenty Thousand Only) be levied upon her payable within 3 months from the date of receipt of the Order and in case the Respondent failed to pay the same as stipulated, the name of the Respondent, be removed for a period of 1 (one) month from the Register of Members.

Sd/-
[CA. Aniket Sunil Talati]


प्रमाणित सत्य प्रतिलिपि / Certified true copy

सी.ए. ज्योतिका ग्रोवर / CA. Jyotika Grover
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
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ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110002

Sd/-
[Smt. Anita Kapur]



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Presiding Officer

Member (Govt. Nominee)

Sd/-
[Shri P.K. Srivastava]
Member (Govt. Nominee)

Sd/-
[CA. Vishal Doshi]
Member

Sd/-
[CA. Sushil Kumar Goyal]
Member

Date: 14/06/2022
Place: New Delhi

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Jyotika

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सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशक / Disciplinary Director
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CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2021-22)]
[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-339/19/DD/78/2020/DC/1429/2021]

In the matter of:

**Mr. Nikhil Ranjan,
Director, M/s. Pixelmate Designs Private Limited,
13th Floor, R-Tech Park, Building-2,
Opposite Western Express High Way,
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MUMBAI - 400 063**

.....Complainant

Versus

**CA. Sujatha G (M.No.223373)
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A7-303, Elita Promenade,
RBI Layout, JP Nagar, 7th Phase,
BENGALURU – 560 078**

.....Respondent

MEMBERS PRESENT:

**Smt. Anita Kapur, Member (Govt. Nominee) & Presiding Officer
Shri Ajay Mittal, Member (Govt. Nominee)
CA. Chandrashekhar Vasant Chitale, Member
CA. P.K. Boob, Member**

Date of Final Hearing: 9th September, 2021 through Video Conferencing

Parties Present:

**CA. Sujatha G- the Respondent
CA C.V. Sajan- the authorised Counsel of the Respondent**

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 was held *prima facie* guilty of Professional and 'Other' Misconduct falling within the meaning of Items (5), (6) and (7) of Part I of Second Schedule, Item (1) of Part II of Second Schedule as well as Item (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949. The said Items to the Schedule state as under: -

Item (2) Part IV of the First Schedule:

"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."

Part I of the Second Schedule

"(5) fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary in making such financial statement where he is concerned with that financial statement in a professional capacity;

(6) fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity;

(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;"

Item (1) of Part II of Second Schedule

"(1) contravenes any of the provisions of this Act or the regulations made there under or any guidelines issued by the Council"

Background of the Case & Allegations

2. The Complainant is the Director of M/s Pixelmate Designs Private Limited (hereinafter referred to as the "**the Company**") and the Respondent had conducted the Statutory Audit and Tax Audit of the Company from the FY 2014-15 to 2017-18. It was noted that in the extant case the Complainant has raised following allegations against the Respondent:-

a) **First Allegation:** It is alleged that the Respondent besides being the Statutory Auditor of the Company, was also handling book-keeping services of the Company. She was appointed to render her professional service for the period from F.Y. 2014-15 to 2018-19 by conducting regular accounting, statutory audit, service tax calculations, filing of service tax returns, VAT Return preparations, etc.

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b) **Second Allegation:** The Respondent was in direct possession of sensitive documents of the Company like DSC, Income Tax/ Service Tax and VAT Login ID and passwords which were created by her and remained to be in her possession without revealing the same to the Complainant and

c) Third allegation

i) **First leg:** the Respondent had expressly and knowingly misguided him in the matter of GST dues in the guise of doing favour to the Complainant, thereby causing heavy statutory burden with regard to GST on the Complainant.

ii) **Second Leg:** the Respondent had also not reported the proper material facts before the Income Tax Authorities in reporting the shortcomings in the payment of statutory dues relating to the Income Tax and

iii) **Third Leg:** The Respondent on various occasions and through various e-mails sought transfer of funds regarding the Service Tax dues payable but the same were not used to make payments to the concerned regulatory authorities and were misappropriated and embezzled by the Respondent.

2.1 At the time of hearing on 9th September 2021, it was noted that out of the foretasted allegations, the Director (Discipline) in his *Prima Facie* Opinion had held the Respondent guilty for the first allegation and first and second leg of the third allegation only. The Committee accordingly proceeded with the enquiry against the Respondent with respect to those allegations only wherein the Respondent was held *Prima Facie* guilty by the Director (Discipline).

Proceedings:

3. At the time of hearing on 9th September 2021, the Committee noted that the Complainant was neither present nor any communication was received from him seeking adjournment . Since the Respondent along with his authorized Counsel was present, the Committee decided to proceed ahead in the matter. Thereafter, the Committee noted that the Respondent was present before it for hearing. Thereafter, she gave the declaration that there was nobody present except her in the room from where she was appearing and that she would neither record nor store proceedings of the Committee in any form. Being first hearing, the Committee



asked the Respondent whether she wished the charges to be read out or it could be taken as read. The Respondent replied that she was aware of the charges raised in the matter. Thereafter, on being asked, as to whether the Respondent pleaded guilty, the Respondent pleaded not guilty and opted to defend the matter against her. Thereafter, the Committee noted that the Counsel for the Respondent, on account of technology glitch, could not appear before it for hearing. Accordingly, short pass-over was granted to the Respondent at her request. After sometime, it was noted that the Respondent alongwith her Counsel were present before the Committee for hearing. The Counsel for the Respondent was thereafter asked to make his submissions in the matter. The Counsel for the Respondent made his submissions on the allegations raised in the extant case. The Committee thereafter examined the Respondent on the submissions made by her Counsel. The Counsel for the Respondent made his final submissions in the matter. Thereafter, based on the documents available on record and after considering the oral and written submissions made by parties, the Committee concluded hearing in the matter. Accordingly, the matter was heard and concluded.

Findings of the Committee:

4. The Committee noted with respect to first charge, the Complainant had alleged against the Respondent that besides being the Statutory Auditor of the Company, was also handling book-keeping services of the Company. She was appointed to render her professional service for the period from F.Y. 2014-15 to 2018-19 by conducting regular accounting, statutory audit, service tax calculations, filing of service tax returns, VAT Return preparations, etc. It was also stated that she was handed over all book keeping responsibilities as the Complainant believed that the Respondent could handle all the accounts related compliance including maintaining of books, advising on statutory payments and auditing. However, as per him, the Respondent kept him in the dark about the fact that she could not be the statutory auditor of the Company when she had substantial interest in maintaining the books of accounts of the Company. The Complainant further submitted that **(C-2)** that the Respondent used to raise invoices for professional services rendered under the name of different firms in which she was interested and used to forward all the bills through her e-mails.

4.1 The Committee noted the submissions made by the Counsel for the Respondent in this regard whereby he stated that nature of services rendered by her father, Shri Gopalamani K.

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was mere computerisation of the accounts into Tally software which did not fall in the prohibited category of services that create threat to independence of auditors. It was argued that all crucial facts including details (or source of financials transactions or data of original entry) were provided by the Company. In other words, management decisions involving carrying out of transactions were done by the Company's management. As per the Respondent, the objective of such exercise was to make the accounts presentable in acceptable form to statutory authorities and it was a mere clerical exercise of data entry and did not fall within the categories of activities that are listed in Para 290.163 of Code of Ethics, as those that create threats to independence of auditor. Accordingly, it was argued that neither computerisation of data in Tally Software nor the assistance provided for provisional balance sheet through another consulting firm constitute accounting and book-keeping services affecting independence of auditors.

4.2 The Committee in this regard noted an e-mail correspondence between the Complainant and the Respondent dated 15th August, 2018 (**D-165**) wherein the Respondent had stated to have invoiced the Company for the service tax filing and provisional balance sheet of the Company under the name of her consultancy firm namely M/s Atraiva Consulting Services when e-mail reads as under-

*"I am invoicing from my consultancy firm for the Service tax filing of **previous years and provisional balance sheet**. Its a axis bank account: "Atraiva Consulting Services" for Rs. 20,000. You will received an automated invoice soon." (**emphasis added**)*

The Committee further took note of various invoices issued in the name of Respondent's father, i.e., Mr. Gopalamani K to the Company in the name of accounting charges (**D-79 to D-82, D-89 & D-91**) for the services rendered for the FY 2015-16, 2016-17 and 2017-18. On perusal of the other documents as available on record, it was from e-mail dated 3rd July, 2017 (**D-262**) sent from Naveen K R, team member of the Respondent Firm as admitted by the Respondent (**D-28 & D-29**), which state as under-

*"We have **accounted all the received details**. We **require following bills** for April, 2017- June, 2017 **to account in tally** (if any). (**emphasis added**)"*

4.3 Thus, from the above facts, the Committee viewed that the accounting services were being provided by the of Respondent's father, i.e., Mr. Gopalamani K with the active involvement of

Respondent and her team. The Committee noted para 3.4.14 the Guidance Note on "Independence of Auditors" which provides that *"The Members are not allowed to write the books of accounts of their auditee clients."*

It was viewed that the Respondent was directly through the Respondent Firm and indirectly through the Respondent's another consultancy firm namely M/s Atraiva Consulting Services as well as through her father i.e., Mr. Gopalamani K was providing the book-keeping/ accounting services to the Company which is prohibited under section 144 of the Companies Act, 2013. Further, it was noted that a 'father' is a 'relative' defined under Sec 2(77) of Companies Act, 2013 read with Rule 4 of Companies (Specification of definitions details) Rules, 2014 and consequently also fall within the ambit of the term 'relative' as defined in Code of ethics. Thus, the Respondent by acting as statutory auditor of the Company besides providing accounting and book-keeping services to the Company either directly or indirectly had violated the provisions of the Guidance Note on "Independence of Auditors" as well as Section 144 of Companies Act, 2013. It was noted that the said services are prohibited for undertaking by an auditor when Sec 144 of the Companies Act, 2013 states as under:-

"144. Auditor not to render certain services

*An auditor appointed under this Act shall provide to the company only such other services as are approved by the Board of Directors or the audit committee, as the case may be, but which **shall not include any of the following services (whether such services are rendered directly or indirectly to the company or its holding company or subsidiary company, namely:—***

(a) accounting and book keeping services;

Provided that an auditor or audit firm who or which has been performing any non-audit services on or before the commencement of this Act shall comply with the provisions of this section before the closure of the first financial year after the date of such commencement.

Explanation.—For the purposes of this sub-section, the term "directly or indirectly" shall include rendering of services by the auditor,—

- (i) in case of auditor being an individual, either himself or through his relative or any other person connected or associated with such individual or through any other entity, whatsoever, in which such individual has significant influence or control, or whose name or trade mark or brand is used by such individual;***

(emphasis added)”

4.4 In this regard, the Committee also noted that the Respondent had audited its financial statements being the Statutory Auditor of the Company for the FY 2015-16, 2016-17 and 2017-18 while being engaged directly / indirectly in providing accounting and book keeping services to the Company, she was disqualified for being appointed as the Statutory auditor of the Company which was in violation of the provisions of Section 141 of Companies Act 2013 which under sub-section 3(j) provides that the person who, directly or indirectly, renders any service referred to in section 144 of Companies Act 2013 to the company or its holding company or its subsidiary company shall not be eligible for appointment as an auditor of a company.

4.5 The Committee further noted that ICAI has issued Guidance Note on “**Independence of Auditors**” which requires that independence of the auditor has not only to exist in fact but also appear to so exist to all reasonable persons and accordingly, considering the facts and circumstances as mentioned above, it formed a view that the independence of the Respondent was compromised in the extant case and thus, the Respondent is held **GUILTY** of Professional Misconduct falling within the meaning of Item (1) of Part II of Second Schedule, Item (7) of Part I of Second Schedule and ‘Other Misconduct’ falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

5. As regard the **first leg of the third allegation**, the Committee noted that it was alleged against the Respondent that she had misguided the Complainant in the matter of GST dues thereby causing heavy statutory burden with regard to GST on the Complainant and also that there was a mismatch in the output taxes collected and input taxes availed during the F.Y. 2017-18 as per books of accounts of the Company.

5.1 The Committee in this regard noted the submissions made by the Respondent that the GSTR 3B Return for March 2018 was filed on its due date i.e. 20th April 2018 on the basis of information made available by the Company. The Output tax payable in GSTR 3B was according to the turnover declared in GSTR 3B which could not be termed as wrong to attract charge professional misconduct, as no wrong filing was done by her and during March 2018. Rather, during the reconciliation process for filing GSTR-1, an invoice amount of Rs 51.30 Lakhs was short reported in the turnover for the purpose of GSTR 3B Return which was included in turnover while filing GSTR-1 and corresponding tax liability of Rs. 9,22,840/-, on

B (10)

being informed to the Company was paid by the it on 10th September 2018.As regard the amount of inputs, she stated that availability of the input claim was according to the input credit available in GSTR 2A was based on GSTR 1 filed by counter parties which would not match with the accounts always for various reasons and that the Complainant should not have any room for grievance as the actual amount of input claimed in GSTR 3B were more than what was in the books of accounts.

5.2 The Committee with respect to this charge noted that short turnover was reported for the purpose of GSTR 3B and GST Return filing system has no provision for amending or revising GSTR 3B return once it is filed except through effecting changes in annual Return in GSTR -9 Form.,

6. Similarly, in the **second leg of the third allegation**, the Complainant had alleged that the Respondent has not reported the proper material facts before the Income Tax Authorities in reporting the shortcomings in the payment of statutory dues of the Income Tax against an intimation dated 12th July, 2018 (**D-128 to D-129**) received from the Income Tax Department under section 143(1) of the Income Tax Act, 1961 raising a demand of INR 37,43,754/- (**D-129**) for the AY 2017-18 on the Company.

6.1 The Committee in this regard noted the submissions made by the Respondent that Intimation received under section 143(1) for AY 2017-18 showing disallowance of Rs. 3743754.00/- was in fact a disallowance by the department on account of service tax not remitted with the government under section 43B and the said unpaid liability was duly reported by the Respondent in Form 3CD and the department was able to identify the unpaid service tax liability of Rs 3743754.00/- for which she, on behalf of the Company had responded to the notices as well wherein disallowances u/s 43B was proposed as well.

6.1.1 She further submitted that the Complainant was fully aware about the tax liabilities from 2014 till 2018 being signatory to the audited balance sheets, which clearly reflected his liability and inspite of such reminders and notice of his tax liabilities, he demonstrated attitude of non-compliance towards the above said tax dues.

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6.1.2 The Respondent pleaded that she was a small practitioner with limited resources and it was although very hard for her to handle such unorganized clients but in spite of such unorganized, incompetent, non-cooperative client and the added disrespect towards compliance of law, she managed to ensure that the statutory disclosures were not compromised.

6.2 The Committee with respect to the said charges viewed that filings are done or reports are prepared based on information obtained from the Company until or unless the Respondent being a professional undertake the responsibility of examination/ reconciliation/ verification. While with respect to first leg of the charge, it was noted that the documents available on record were not sufficient to provide the scope of services for which the Respondent was hired, with respect to second leg of charge, it was noted that the documents were not sufficient to bring out the negligence exercised by the Respondent in respect of non-payment of statutory dues when the same was reported in Form 3CD. Based on information available on records, the Committee decided to extend benefit of doubt to the Respondent and held her **Not Guilty** of the extant allegation.

Conclusion:

7. Thus in conclusion, in the considered opinion of the Committee, the Respondent is held **GUILTY** of professional misconduct falling within the meaning of Item (1) of Part II of Second Schedule, Item (7) of Part I of Second Schedule and other misconduct falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 of the first Charge only related to Independence of auditors.

b *Ⓢ*

Sd/-
[Smt. Anita Kapur]
Member (Govt. Nominee) & Presiding Officer

Sd/-
[Shri Ajay Mittal, IAS (Retd)]
Member (Govt. Nominee)

Sd/-
[CA. Chandrashekhkar Vasant Chitale]
Member

Sd/-
[CA. P.K. Boob] Member

DATE: 17th December, 2021
PLACE: New Delhi

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Mohita Khanna
श्री. मोहिता खन्ना / CA. Mohita Khanna
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अनुशासनालय / Disciplinary Directorate
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