

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

**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:**

**Deputy Director,**

**Ministry of Corporate Affairs**

**'A' Wing, 5<sup>th</sup> Floor**

**Shastri Bhawan**

**NEW DELHI – 110 001**

**.....Complainant**

**Versus**

**CA. Alok Kumar Mittal (M.No.071205), New Delhi**

**X-13, Haus Khas**

**NEW DELHI – 110 016**

**..... Respondent**

**[PR-85/15-DD/251/2016/DC/760/2018]**

**Date of Meeting : 10<sup>th</sup> August, 2022**

**Place of Meeting : ICAI, New Delhi**

**Party Present:**

**CA. Alok Kumar Mittal: Respondent ( Through Video Conferencing Mode)**

**MEMBERS PRESENT:**

- 1. CA. (Dr.) Debashis Mitra, Presiding Officer (In person)**
- 2. Shri Jiwesh Nandan, IAS (Retd.), Government Nominee (In person)**
- 3. Ms. Dakshita Das, IRAS (Retd.), Government Nominee (In person)**
- 3. CA. Mangesh Pandurang Kinare (In person)**
- 4. CA. Sripriya Kumar (Thru. VC)**



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1. That vide findings dated 01<sup>th</sup> June, 2022 under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Disciplinary Committee was of the opinion that **CA. Alok Kumar Mittal (M.No.071205), New Delhi** (hereinafter referred to as the "Respondent") was **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act.

2. That an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication dated 01<sup>st</sup> August 2022 was addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee in its hearing fixed on 10<sup>th</sup> August, 2022.

3. The Committee noted that the Respondent was present through video conferencing mode and appeared before it. He submitted written submissions dated 30.06.2022 on the findings dated 01.06.2022 of the Committee and made oral submissions before the Committee. The Respondent submitted that all documents including Board's Report and Auditors Report were scanned by his assistant and under the impression of having all the documents being scanned properly and was e-filed with ROC. The Respondent added that there were two files in different format meant for e-filing i.e., one in word doc format and another in excel format. The excel format file was attached during e-filing but due to inadvertent error the word doc file was not attached, which was subsequently submitted to ROC. The Respondent submitted that this was an instance from his office which caused such filing without attachment of Board's Report and Auditor's Report. The Respondent further stated that he had been exercising due diligence over three decades while performing his professional assignments and it was a complete unintentional mistake on his part and on part of his office assistant which caused the same. The Respondent prayed for lenient view in the matter.

4. The Committee noted that in the instant complaint, the Respondent certified Form 23AC of M/s Pacific Spirits Private Limited (herein after referred as **the Company**) for the financial year



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ended 31.03.2013 certifying that "It is hereby certified that I have verified the above particulars (including attachments) from the audited financial statements of Pacific Spirits Pvt Ltd and found them to be true and correct. I further certify that all required attachment(s) have been completely attached to this form". But no Director's Report and Auditor's Report (except the Annexure to the Auditor's Report) were attached to form 23AC, so certified by the Respondent. So, the certification by the Respondent of the Form 23 AC was false and reckless.

5. The Committee considered the oral as well as written submissions made by the Respondent, facts of the case and various documents on record with the findings of the Committee holding the Respondent guilty of professional misconduct on the above charge.

6. On perusal of documents on record, the Committee noted that the Respondent admitted the mistake on his part and submitted that Auditor's & Director's reports were inadvertently not filed along with form 23AC with ROC by his assistant; and stated that addendum was filed in Form 67 with ROC before the date of filing of instant complaint with the ICAI. The Committee further observed that it was a procedural lapse which was subsequently rectified by the Respondent on 31-10-2014 which was well before the date of filing of Complaint (i.e., 31-03-2015) by the Complainant Department. In other words, the complete set of documents after rectification were available with the records of Registrar of Companies, before the date of filing of complaint by the complainant department. The Committee noted that the Respondent at the hearing stage had accepted his mistake.

6.1 Accordingly, the Committee, looking into the gravity of the charge *vis-a-vis* admission of the Respondent before it, decided to take a lenient view in the matter.



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7. Thus, keeping in view the facts and circumstances of the case as aforesaid, material on record and submissions of the Respondent before it, the Committee ordered that the Respondent i.e., CA. Alok Kumar Mittal (M.No.071205), New Delhi, be reprimanded.

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Sd/-  
(CA. (DR.) DEBASHIS MITRA)  
PRESIDING OFFICER

Sd/-  
(SHRI JIWESH NANDAN, IAS (RETD.))  
GOVERNMENT NOMINEE


Sd/-  
(MS. DAKSHITA DAS, IRAS (RETD.))  
GOVERNMENT NOMINEE

Sd/-  
(CA. MANGESH P KINARE)  
MEMBER

Sd/-  
(CA. SRIPRIYA KUMAR)  
MEMBER

Date: 06<sup>th</sup> October, 2022  
Place: New Delhi

प्रमाणित सत्य प्रतिलिपि / Certified true copy

  
सी.ए. सुनील कुमार / CA. Suneel Kumar  
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 Neger, Shahdra, Delhi-110032

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – IV(2022-2023)]**

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

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

**File No. : [PR-85/15-DD/251/2016/DC/760/2018]**

**In the matter of:**

**Deputy Director,  
Ministry of Corporate Affairs  
'A' Wing, 5<sup>th</sup> Floor  
Shastri Bhawan  
NEW DELHI – 110 001**

**.....Complainant**

**Versus**

**CA. Alok Kumar Mittal (M.No.071205), New Delhi  
X-13, Haus Khas  
NEW DELHI – 110 016..... Respondent**

**MEMBERS PRESENT:**

- 1. CA. (Dr.) Debashis Mitra, Presiding Officer (In person)**
- 2. Shri Jayanti Prasad, Govt. Nominee (Thru. VC)**
- 3. CA. Mangesh Pandurang Kinare (In person)**
- 4. CA. Sripriya Kumar (Thru. VC)**

**DATE OF FINAL HEARING : 25.04.2022**



**PARTIES PRESENT:**

- i) Ms. Kamna Sharma : **Representative on behalf of the Complainant (appeared through VC from personal location)**
- ii) CA. Alok Kumar Mittal : **the Respondent (in person)**

**Charges in Brief:-**

1. The subject case is related to a complaint wherein, the allegation is that the Respondent certified Form 23AC of M/s Pacific Spirits Private Limited (herein after referred as **the Company**) for the financial year ended 31.03.2013 certifying that *"It is hereby certified that I have verified the above particulars (including attachments) from the audited financial statements of Pacific Spirits Pvt Ltd and found them to be true and correct. I further certify that all required attachment(s) have been completely attached to this form"*. But no Director's Report and Auditor's Report (except the Annexure to the Auditor's Report) were attached to form 23AC, so certified by the Respondent. So, the certification by the Respondent of the Form 23 AC was false and reckless.
2. The Committee noted that in the Prima-Facie Opinion formed by Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Respondent is Guilty under Clause (7) of Part-I of Second Schedule to the Chartered Accountants, Act, 1949.

**Proceedings/Findings:**

3. On the day of hearing, the Committee noted that the authorised representative of the Complainant Department was present before it for hearing. Thereafter, she gave a declaration that there was nobody except her in room from where she was appearing and that she would neither record nor store the proceedings of the Committee in any form.
- 3A. The Respondent was present physically at ICAI Bhawan, New Delhi and appeared before the Committee. Being first hearing of captioned case, the

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authorized representative of Complainant Department and the Respondent were put on oath, and on charges being read out, the Respondent opted to defend the case against him and desired to proceed ahead in the hearing and make his submissions in the matter. The Complainant then informed that the matter pertained to e-governance cell of the Ministry of Corporate Affairs.

3B. A letter dated 21.04.2022 was received from Shri B. Srikumar, Joint Director, e-Governance Cell, Ministry of Corporate Affairs stating that the Committee may take necessary action as deem fit on the basis of information/irregularities reported by Department based on the documents/information available on record.

3C. Accordingly, the Committee directed the Respondent to make his submissions. The Respondent admitted the mistake and submitted that Auditor's & Director's reports were inadvertently not filed along with form 23AC with RoC by his assistant; and stated that addendum was filed with RoC before the date of filing of instant complaint with the ICAI.

3D. Based on the documents available on record and after considering the oral and written submissions made by the parties before it, the Committee concluded the hearing in the case.

4. The Committee noted that the Respondent during the hearing had admitted that it was an inadvertent and unintentional error on his part; which has caused e-filing of Form 23AC of the Company for the financial year 2012-2013 without attaching Director's Report and Auditor's Report. He stated the complete set of documents were given to his assistant, however, he had scanned only the balance sheet and filed the same.

5. The Respondent submitted that he was not the auditor of the company in question; and one of his friends approached him to file Form 23A with ROC on last date to which he agreed and filed the same. Complete annual accounts set was handed over to his office Assistant for scanning; however, he just scanned

Balance Sheet and attached the same. Relying on the person concerned, the Respondent signed and e-filed Form 23AC with ROC.

6. The Respondent further submitted that when the Company was in the process of name change during the Financial Year 2014-15 and while filing form INC-24, the defect related to Form 23AC was brought to the notice of Company by ROC; and accordingly Addendum in Form 67 was filed on 31-10-2014 by the Company along with complete set of Balance Sheet, Auditor's Report and Director's Report in respect of Original form 23AC and 23ACA thereby getting the defect removed.
7. The Respondent also submitted that it was purely a procedural lapse and the same also got rectified on 31-10-2014; which was well before the date of filing of Complaint (i.e. 31-03-2015) by the Complainant Department. In other words, the complete set of documents after rectification were available with the records of Registrar of Companies, before the date of filing of complaint by the complainant department.
8. In view of above submissions by the Respondent and factual position in the matter, the Committee observed that the mistake which had caused on the part of the Respondent was a procedural lapse which later got rectified before the date of filing of instant complaint. However, the Committee opined that the Respondent had relied upon the work of his assistant and wrongly certified that all required attachment(s) have been completely attached to Form 23AC without exercising due care while performing professional work.
9. After considering all the facts and circumstances of the case, the Committee arrived at the decision that the Respondent is Guilty for the lone aspect that he did not exercise due diligence as envisaged under Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

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**Conclusion**

10. Based on the documents available on record and after considering the oral and written submissions made by the parties before it, the Committee concluded the hearing in the case and the Respondent was held **GUILTY** of Professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949; as due diligence was not exercised by Respondent while initially e-filing Form 23AC.

Sd/-  
(CA. (DR.) DEBASHIS MITRA)  
PRESIDING OFFICER

Sd/-  
(SHRI JAYANTI PRASAD, IAAS (RETD.))  
MEMBER, GOVERNMENT NOMINEE

Sd/-  
(CA. MANGESH P KINARE)  
MEMBER

Sd/-  
(CA. SRIPRIYA KUMAR)  
MEMBER

DATE: 01/06/2022

PLACE: NEW DELHI

प्रमाणित सत्य प्रतिलिपि / Certified true copy  
सीए. सुनील कुमार / CA. Suneel Kumar  
सहायक सचिव / Assistant Secretary  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
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