

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2023-24)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(17) and 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

Ref. No.: [PR/G/175/2022/DD/102/2022/DC/1673/2022]

**Deputy Registrar of Companies,
Ministry of Corporate Affairs,
Kendriya Sadan,
2nd Floor, E Wing,
Koramangala
Bangalore-560034**

....Complainant

Versus

**CA. Gurusala Teja
146/28, 1st Floor,
Anugraha, 14th Cross,
Vyalikaval
Bengaluru – 560003**

....Respondent

MEMBERS PRESENT:

**CA. Aniket Sunil Talati, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
Dr. K Rajeswara Rao, Member (Govt. Nominee)
CA. Piyush S Chhajer, Member
CA. Sushil Kumar Goyal, Member**

Date of Final Hearing: 6th September, 2023 through Video Conferencing

PARTIES PRESENT:

- (i) Smt. Hemalatha N (AROC) – the Complainant's Representative
- (ii) CA. Teja Gurusala – the Respondent
(Both appeared from their respective personal locations)

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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 Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949. The said Item to the Schedule states as under: -

Part I of Second Schedule: 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”

Brief background and allegations against the Respondent

2. The Complainant inter-alia submitted that the Respondent assisted in the incorporation of M/s Pentium Waves Hitech Private Limited (hereinafter referred to as ‘**the Company**’) which was not found at its registered office address and that the Company was also involved in Micro Instant Loan App Scam. That Mr. Birendra Bijoy Das, one of the directors of the Company was also the director of 9 other companies located at same registered office address with same objective and functions still the Company was incorporated by the Respondent.
- 2.1 It was noted, after due investigation by Director (Discipline) in the extant matter, the Respondent was held *prima facie* guilty only in connection to registered office i.e. in SPICE + Form certified by the Respondent (C-111 to C-125) he had declared to have personally visited the premises of the proposed registered office of the Company whereas he had not visited the premises of the proposed registered office of the Company which tantamounted to an incorrect declaration on part of the Respondent. Accordingly, the extant proceedings were limited to that charge only.

Proceedings

3. On 6th September, 2023, the Committee noted that the Complainant's Representative as well as the Respondent appeared before it for the hearing through video conferencing. Thereafter,



the Committee noted that matter was part-heard and accordingly, the Committee asked the Complainant to present the matter. Thereafter, the Respondent was asked to make his submissions in the matter. The Committee examined the Respondent on his submissions and sought certain clarifications from the Complainant based on the submissions made by the Respondent. Thereafter, the Respondent made final submissions in the matter.

Based on the documents available on record and after considering the oral and/or written submissions of the parties concerned, the Committee concluded hearing in the matter.

Findings of the Committee

4. At the outset the Committee noted that there was only one allegation against the Respondent in respect of the registered office of the Company which as per the Complainant was not found during physical verification conducted by its department. The Respondent submitted to have certified the incorporation form providing only the address for communication and not the registered office of the Company. As per him, till then, the rental agreement was signed only by the lessor but not by the directors of the Company, hence, he had not certified for the registered office of the Company. The directors of the Company had informed him to file separate Form INC-22 once the registered address of the Company was finalized. He contended that in the incorporation form only the correspondence address was certified and not the registered office address. Therefore, there was no requirement to submit any proof of communication address along with the incorporation forms. He brought on record the Instruction Kit for Spice+ (INC-32) which provided under 'Serial No. 7(b)' that

"in case address for correspondence is not the address of the registered office, the company shall set up its registered office within 15 days of the approval of the name of the company"

He also submitted that after the incorporation of the Company, he had followed up with the directors of the Company for filing the Form INC-22 and INC-20A for providing the information of the registered office but no response was received from them and thereafter, there was no communication between them. The Respondent, accordingly, submitted that he had rendered his services to the best of his knowledge and had performed his duties as professional without any negligence and without ill intentions. The Respondent also stated that he was not aware of any of illegal intentions or activities or operations done by the Company post incorporation as he was not associated or connected to it in any manner.

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4.1 On perusal of the documents as available on record, the Committee noted that the Respondent had only certified the address for communication instead of registered office of the Company. Further, under "Declaration and certification by professional", a declaration in relation to personal visit to the premises of the proposed registered office was also included but it was subject to the condition – "**wherever applicable in respect of the proposed registered office has been given**" as reproduced below:-

"(ii) all the requirements of Companies Act, 2013 and the rules made thereunder relating to registration of the company under section 7 of the Act and matters precedent or incidental thereto have been complied with. The said records have been properly prepared, signed by the required officers of the Company and maintained as per the relevant provisions of the Companies Act, 2013 and were found to be in order;

.....
(iv) I further declare that I have personally visited the premises of the proposed registered office given in the form at the address mentioned herein above and verified that the said proposed registered office of the company will be functioning for the business purposes of the company (wherever applicable in respect of the proposed registered office has been given).

(v) It is understood that I shall be liable for action under Section 448 of the Companies Act, 2013 for wrong certification, if any found at any stage."

As regards 'Declaration' given by the Respondent in his professional capacity, it was noted by the Committee that the Respondent could not exclude or untick any of the clauses not applicable in his case. Thus, the Committee viewed that when the Respondent had clearly stated in the form that the communication address of the Company was not the registered office address of the Company, the extant allegation was not maintainable against him.

4.2 Accordingly, upon overall examination of facts and documents brought on record, the Committee viewed that the Respondent is **Not Guilty** for Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Conclusion :

5. Thus, in conclusion, in the considered opinion of the Committee, the Respondent is **Not Guilty** of professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

6. Accordingly, in terms of Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee passes Order for closure of this case.

Sd/-
[CA. Aniket Sunil Talati]
Presiding Officer

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

Sd/-
[Dr. K. Rajeswara Rao]
Member (Govt. Nominee)

Sd/-
[CA.Piyush S Chhajed]
Member

Sd/-
[CA. Sushil Kumar Goyal]
Member

Date: 3rd October, 2023
Place: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy
सीए सुशिल कुमार गोयल / CA. Sushil Kumar Goyal
सहायक निदेशक / Joint Director
अध्यक्ष निदेशक के कार्यालय / Joint Secretary, Directorate
इंस्टीट्यूट ऑफ चार्टर्डेड अकाउंटेंट्स ऑफ इंडिया
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