



Date of Pronouncement – 23.01.2024

PPR/G/13/18/DD/05/INF/20-DC/1592/2022

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 WITH REGARD TO PUNISHMENT.

[PPR/G/13/18/DD/05/INF/20-DC/1592/2022]

In the matter of:

CA. Manojkumar Ganeshmal Jain (M. No. 509515)

D-219, D Wing,

International Trade Centre,

Majura Gate, Ring Road,

Surat - 395 002

.....Respondent

MEMBERS PRESENT:

1. CA. Ranjeet Kumar Agarwal, Presiding Officer (Present in person)
2. Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee (Present in person)
3. Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (Present in person)
4. CA. Sanjay Kumar Agarwal, Member (Present in person)

1. The Committee noted that the Respondent has been held guilty vide findings dated 14.12.2023 (Ref no. PPR/G/13/18/DD/05/INF/20-DC/1592/2022). The said findings holding him guilty were duly communicated to the Respondent. **This is with regard to M/s. Yogeshwar Diamonds Private Limited.** The findings of the Committee whereby the Respondent had been held guilty are as below:-

"FINDINGS OF THE COMMITTEE

FIRST CHARGE BY DIRECTOR (DISCIPLINE)

13. The Committee noted that the first charge relates to improper/ misleading reporting regarding maintenance of cost records in his report for the financial year 2014-15. The Committee noted that the relevant extracts of Paragraph 3(vi) of Companies (Auditor's Report) Order, 2015 states as under:

"Where maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013 whether such accounts and records have been made and maintained."



13.1 The Committee noted that the Respondent in his audit report for the financial year 2014-15 in para (8), had mentioned as under:

"...we have broadly reviewed the books of accounts maintained by the Company pursuant to the order made by the Central government of India for maintenance of cost records under section 209(1)(d) of the Companies Act, 1956 and are of opinion that prima facie the prescribed accounts and records have been maintained".

13.2 From the above vis-à-vis submissions of the Respondent that the Company was engaged in trading of diamonds, however as per the provisions of the Companies Act/ Rules, maintenance of cost records is applicable to the concerns engaged in manufacturing activity. Hence, the Respondent was required to mention that maintenance of cost records is not applicable on the Company.

13.3 The Committee noted that the Respondent had referred to the provisions of Companies Act, 1956. However, the matter pertains to the financial year 2014-15 for which the provisions of the Companies Act 2013 were applicable.

13.4 Thus, looking into the above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that the Respondent was casual in his approach while issuing his audit report as statutory auditor of the Company for FY 2014-15. Accordingly, the Committee hold the Respondent GUILTY of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

SECOND CHARGE BY DIRECTOR (DISCIPLINE)

14. The Committee noted that second charge is that Respondent in his CARO reporting, he has not reported about the deposits taken by the Company and the amount required to be transferred to the Investor Education and Protection Fund (IEPF) in his report for financial year 2014-15.

With respect to deposits, the Committee noted that the relevant extracts of Paragraph 3(v) of Companies (Auditor's Report) Order, 2015 states as under:

"In case the company has accepted deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules framed there under, where applicable, have been complied with? If not, the nature of contraventions should be stated; If an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not?"

14.1 The Committee noted that instead of mentioning about the same in his audit report, the Respondent in his audit report for the financial year 2014-15 in para 6, had mentioned as under:



"The Company has not accepted any deposit from the public pursuant to Section 58A, 58AA or any other relevant provisions of the Companies Act 1956 and rules framed thereunder. Therefore, the provisions of clause (vi) of the order are not applicable to the Company"

14.2 Thus, looking into above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that the Respondent being a statutory auditor of the Company while issuing report has **not** properly reported the detail as prescribed under the same. Further, it is noted that the Respondent has referred the provisions of Companies Act, 1956 whereas Companies Act 2013 was applicable on the company in year 2014-15. Thus, it is viewed that the Respondent was casual in his approach while issuing his audit report as statutory auditor of the Company for FY 2014-15. Thus, in light of the reasoning given above pertaining to instant charge, the Respondent is held **GUILTY** on this charge for professional misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949

15. With respect to Investor Education and Protection Fund (IEPF), the Committee noted that the relevant extracts of Paragraph 3(vii)(c) of Companies (Auditor's Report) Order, 2015 states as under:

"Whether the amount required to be transferred to investor education and protection fund in accordance with the relevant provisions of the Companies Act, 1956 (1 of 1956) and rules made there under has been transferred to such fund within time."

15.1 The Committee noted that instead of mentioning about the same in CARO reporting, the Respondent his audit report for the financial year 2014-15 in para 9(a), had mentioned as under:

"The Company has been regular in depositing undisputed statutory dues including provident fund, Investor Education and Protection fund, Employees State Insurance, Income Tax, sales tax, wealth tax, service tax, custom duty, excise duty, cess and other statutory dues with the appropriate authorities during the year. According to the information and explanations given to us, no undisputed amount payable in respect of the aforesaid dues were outstanding as at March 31, 2015 for period of more than six months from the date of becoming payable".

15.2 The Committee noted that Respondent was mandatorily required to report the same separately under CARO 2015 as per Paragraph 3(vii)(c) of Companies (Auditor's Report) Order, 2015.

15.3 Thus, looking into above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that although such type of error neither affects the true and fair view nor affects the decision making of any user of the financial statement of the Company, however, the auditor has not reported on Clause 3 vii (c) which reflects his casual approach of the Respondent while reporting on CARO 2015. Accordingly, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

THIRD CHARGE BY DIRECTOR (DISCIPLINE)



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16. The Committee noted that the third charge related to non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 with respect to the negative figure of Trade Payables as on 31.03.2014 (appearing in previous years' figures of the Financial Statements of 31.03.2015). The Committee on perusal of records noted that in the Balance Sheet for the year ended 31.03.2015 (filed with Income Tax Department), trade payables were shown as Rs 14,14,09,387/- and in the previous year (i.e., on 31.03.2014) trade payables were shown in bracket as Rs (89,08,36,063/-). The Committee noted that as per the charge, since the balance was negative in the previous years, hence it should be disclosed under Other Current Assets rather than Trade payable/Creditors.

16.1 The Committee noted that Section 129 of the Companies Act, 2013 states that:

"The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III".

16.2 The Committee noted that general instructions for preparation of Balance Sheet has been given in Schedule III of the Companies Act, 2013 and point 5 of such instructions specifically mentioned as under:

"A payable shall be classified as a —trade payable if it is in respect of the amount due on account of goods purchased or services received in the normal course of business."

16.3 Accordingly, the amounts which are due on account of goods purchased or services received are required to be mentioned under the head "Trade Payable" and since advance paid to suppliers does not fall under the above classification, hence, the same should have been disclosed under the head advances paid to suppliers against goods.

16.4 Thus, looking into the above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that since the advances paid to suppliers are not liability incurred towards purchase of goods and services, therefore, they shall not be disclosed as 'trade payables.' Such advances should be reported as 'other current assets' as income received in advance in line with Schedule III to the Companies Act, 2013. Such a type of presentation is not in line with the requirement of Section 129 read with Schedule III of the Companies Act. The Committee further noted that the Respondent had made a false statement in his report by stating that financial statements gives true and fair view of the state of the Company's affairs as at 31.03.2015 (with respect to disclosure of Trade Payable under Sundry Creditors). Accordingly, the Committee hold the Respondent GUILTY of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

FOURTH CHARGE BY DIRECTOR (DISCIPLINE)

17. The Committee noted that fourth charge related to non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 with respect to the negative figure of Trade receivables as on 31.03.2014 (appearing in previous years' figures of the Financial Statements of 31.03.2015). The Committee on perusal of records noted that in the Balance Sheet for the year



ended 31.03.2015 (filed with Income Tax Department), trade receivables were shown as Rs 2,13,14,597/- and in the previous year (i.e., on 31.03.2014) trade receivables were shown in bracket as Rs (124,01,15,337/-). The Committee noted that as per the charge, since the balance was negative in the previous years, hence it should be treated as Other Current Liability rather than trade receivables/debtors.

17.1 The Committee noted that Section 129 of the Companies Act, 2013 states that:

"The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III".

17.2 The Committee noted that Paragraph 4 of General instructions for preparation of balance sheet given in Schedule III of the Companies Act, 2013 provides as under:

"A receivable shall be classified as a —trade receivable if it is in respect of the amount due on account of goods sold or services rendered in the normal course of business."

17.3 Accordingly, the amounts which are due on account of goods sold or services rendered are required to be mentioned under the head "Trade Receivable" since advance received from customer does not fall under the above classification, the same should be disclosed under the head Advances received from customers against goods.

17.4 Thus, looking into the above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that advance received from customers shall not be disclosed as negative balance of trade receivables and thus as reduction from total assets. It was viewed that such disclosure not only distort the true and fair presentation of financial statements but also understate the liability of the company since such negative trade receivables are, in their true sense, the advance received from customers and ought to be disclosed as 'other current liabilities' in line with Schedule III to the Companies Act, 2013. Such type of presentation is not in line with the requirement of Section 129 read with Schedule III of the Companies Act and the Respondent had made a false statement in his report by stating that financial statements gives true and fair view of the state of the Company's affairs as at 31.03.2015 (with respect to disclosure of Trade Payable under Sundry Debtors). Accordingly, the Committee held the Respondent GUILTY of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

FIFTH CHARGE BY DIRECTOR (DISCIPLINE)

18. The Committee noted that the fifth charge is that there is difference in figures of Trade payables and Trade receivables in the set for the financial year ended 31.03.2014 submitted with MCA and the Income Tax.

18.1 The Committee noted that in the XBRL balance sheet the Respondent has mentioned Trade payable as Rs 1,24,01,15,337/- and trade receivable amounting to Rs. 89,08,36,063/- whereas in the balance sheet filed with the Income Tax Department the figures of trade payables is shown as Rs. (89,08,36,063/-) and trade receivables amounting to INR (1,24,01,15,337/-) as



negative figures. The Committee further noted that Respondent in his submissions in this regard mentioned that reason of the negative balance is that the Company had received advances from its customers to fulfil their demands, on the other hand the Company has paid advances to its suppliers for the purchase of diamonds. However, the same could not be delivered/received by the concerned customers/suppliers. He further submitted that XBRL schema did not allow filing negative figures under the head Trade payables and Trade Receivables, therefore, advance received from customers is disclosed under the head "Other Current Liability" and advance paid to suppliers disclosed under the head "Other Current Assets".

18.2 The Committee noted that findings relating to similar charge had been given para 16 to 16.4 and 17 to 17.4 above wherein it is concluded by the Committee that such a type of presentation is not in line with the requirement of section 129 read with Schedule III of the Companies Act 2013. The Committee also viewed that the Respondent should have mentioned the figures as advance paid to supplier and advance received from customers under correct head of Balance Sheet for better and correct presentation. Looking into the findings given above vis-à-vis admission of the Respondent, the Committee hold the Respondent GUILTY of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge also.

SIXTH CHARGE BY DIRECTOR (DISCIPLINE)

19. The Committee noted that the sixth charge is that no details of related party transactions have been mentioned in the set filed with Income Tax for the financial year ended 31.03.2014. The Committee noted that the Respondent in his Written Statement stated that has submitted that he has given the adequate disclosures in XBRL balance sheet.

19.1 The Committee in this regard noted that management had given the necessary disclosure regarding related party transactions in XBRL report of the Company but failed to disclose related party transactions in balance sheet filled with the income tax authority.

19.2 The Committee, in view of acceptance of the mistake by the Respondent vis-à-vis the fact that the Respondent being a statutory auditor of the Company failed to point out that the Company, has not properly disclosed Related party Transaction as per AS-18, noted that the Respondent was not only grossly negligent in duties but also failed to report known material fact in the financial statement. Accordingly, the Committee hold the Respondent GUILTY of Professional Misconduct falling within the meaning of Item(s) (5) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

CONCLUSION

20. In view of the above findings stated in the above para's vis-à-vis material on record, the Committee, in its considered opinion, holds the Respondent GUILTY of Professional Misconduct falling within the meaning of Items (5) & (7) of Part-I of the Second Schedule to the Chartered Accountants Act, 1949."



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2. After communication of the aforesaid findings of the Committee dated 14.12.2023, the Respondent was called by the Committee to appear before it on 09.01.2024 and to make his submissions / representations under Rule 19(1) of the Chartered Accountants (Procedures of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 on quantum of punishment. The Respondent appeared on 09.01.2024 and submitted his representations with regard to quantum of punishment as under:-

- He had admitted his mistakes right from his initial submissions.
- That he had learnt a lesson and would take every care to ensure that such mistakes are not repeated.
- That he had nothing to argue, and he would not like to waste the Hon'ble Committee's time in meaningless arguments.
- That he is 40-years-old and had qualified in the year 2007, and when he had signed the impugned financial statements for financial year 2013-14, he was about 30 years old and it was only the 6th year of his practice.
- There was no gross negligence and no misconduct.
- He admitted his lack of knowledge and pleaded for mercy, mistakes were not committed knowingly or deliberately. He requested that the mildest possible punishment be awarded to him.

3. After careful consideration of the facts and circumstances, material on record and submissions of the Respondent before it as well his submissions made on 09.1.2024, the Committee decided to **reprimand the Respondent along with a fine of Rs.25,000/- (Rupees Twenty Five Thousand Only) on the Respondent, to be paid within 90 days of receipt of the said Order.**

SD/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

SD/-

(MRS. RANI NAIR, I.R.S. RETD.)
GOVERNMENT NOMINEE

SD/-

(SHRI ARUN KUMAR, I.A.S. RETD.)
GOVERNMENT NOMINEE

SD/-

(CA. SANJAY KUMAR AGARWAL)
MEMBER

DATE: 23.01.2024

PLACE: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy
Alitika Gupta
सीए नीतिका गुप्ता / CA. Nitika Gupta
सहायक निदेशक / Assistant Director
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहिदा, दुबई-110032
ICAI Bhawan, Vishwas Nagar, Shahida, Delhi-110032

DISCIPLINARY COMMITTEE [BENCH – II (2023-2024)]

[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.: [PPR/G/13/2018-DD/05/INF/2020/DC/1592/2022]

In the matter of CA. Manojkumar Ganeshmal Jain (M.No.509515), Surat (Gujarat)
in Re:

CA. Manojkumar Ganeshmal Jain (M. No. 509515)

D-219, D Wing,

International Trade Centre,

Majura Gate, Ring Road,

Surat - 395 002

.....Respondent

MEMBERS PRESENT:

CA. Ranjeet Kumar Agarwal, Presiding Officer (Present in person)

Mrs. Rani S. Nair, I.R.S. (Retd.), Government Nominee (Present in person)

Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (Present in person)

CA. Sridhar Muppala, Member (Present in person)

DATE OF FINAL HEARING : 13.09.2023 (through physical/video conferencing mode)

PARTIES PRESENT

RESPONDENT:

CA. Manojkumar Ganeshmal Jain

(Through Video Conferencing Mode)

BACKGROUND OF THE CASE: -

1. The brief background of the case is that a letter No. ROC/Guj/Insp. 206(5)/STAN/Yogeshwar/8776 dated 27th February, 2018 was received from **Shri V.K. Khubchandani**, Registrar of Companies, Gujarat, Dadra and Nagar Haveli, Ministry of Corporate Affairs (hereinafter referred as "**Informant**") against the Respondent. On receiving the aforesaid letter, the Informant was requested vide letter dated 15th March, 2018, followed by reminders letter/email dated 10th September, 2018 and 13th February, 2019 to file a formal complaint in prescribed Form 'I' in triplicate along with all supporting documents, if any. However, the Informant did not file the same despite the aforesaid reminders.
2. The Informant, in the instant matter, has informed that the Respondent was the auditor of **M/s Yogeshwar Diamonds Private Limited** (hereinafter referred to as '**Company**') for the **financial year 2013-14 & 2014-15**. The Informant has conducted the inspection of the Company on the basis of defaults in repayment of bank loans including from public sector bank and indulging in fraudulent activities through manipulation of books of accounts, dubious import transactions, misappropriation and diversion of funds and found various violations which involved professional misconduct by statutory auditor.
3. The financial statements of the Financial Year 2012-13 to 2014-15 of the said company were downloaded from the MCA site by the Disciplinary Directorate. On overall examination of the documents available on record, the matter has been decided to be treated as "Information" within the meaning of Rule 7 of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 (hereinafter referred to as 'Rules')

CHARGES IN BRIEF:

4. The Committee noted that various instances of professional misconduct were highlighted by the Informant which were as under:

S.no.	Charge	View of Director (Discipline)
1.	No director or registered office of the Company was found at the address given on MCA record hence the balance sheet submitted by Respondent with ROC and Income Tax Department is wrong and fabricated	Held Not Guilty
2.	Improper/ misleading reporting regarding maintenance of cost records in his report for financial year 2014-15	Held Guilty
3.	Non reporting of deposits taken by the Company and amount required to be transferred to the Investor Education and Protection Fund (IEPF) in CARO report for the financial year 2014-15	Held Guilty
4.	Non-compliance of clause 4(xiii), (xiv) and (xix) of CARO 2015	Held Not Guilty
5.	non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 in previous years' figures appearing in the Financial statements of 31.03.2015 with respect to the negative figure of Trade Payables, as on 31.03.2014	Held Guilty
6.	Non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 in previous years' figures appearing in the Financial statements of 31.03.2015 with respect to the negative figure of Trade receivables as on 31.03.2014	Held Guilty
7.	Difference in figures of Trade receivables and	Held Guilty

	Total Equity in the same set of financial statements for financial year ended 31.03.2014 submitted with MCA and the Income Tax	
8.	Non-disclosure of Related party transactions in the set filed with Income Tax for the financial year ended 31.03.2014	Held Guilty

5. The Committee noted that the Respondent at the stage of PFO had inter-alia mentioned as under:
- a. That after completion of audit, the financial documents, bills and vouchers was returned to Company so he was unable to provide the same to the Inspection Officer. The Respondent also stated that he had financial data of the Company in electronic form, which he had duly provided to the Inspection officer. The Respondent also stated that he had done audit for the financial year 2013-14 and 2014-15 and inspection was initiated after completion of his tenure therefore, he could not be held liable for any event occurred after the tenure completed.
 - b. That he carried out the Company audit on the basis of books of accounts and documents provided to him by the directors of the Company and he had visited the registered office of the Company at the time of audit and directors were duly operated business from the premises.
 - c. The Company was engaged in trading of diamonds however maintenance of cost records is applicable to the concerns engaged in manufacturing activity. Hence, it is very clear that maintenance of cost records is not applicable to the concerned company. Further, he had reported the same aspect but due to typing mistake there remain the reference of section of Companies Act, 1956. The Respondent also stated that being initial year of implementation of new Companies Act as well as CARO, 2015, there were some typing error i.e., reference to previous Companies Act provisions.
 - d. That reporting for all statutory dues, disputed and undisputed, applicable to the company had been duly reported by him in this point no. 9. Further in the XBRL schema there was no such specific clause to report about amount to

be transferred to the IPEF. Hence, in XBRL from filed with ROC, the same was covered in clause of statutory dues.

- e. The Company was engaged in the business of export, import, trading of rough and polished diamond. Many times buyer requested for special type of diamond to vendors and during the year ended on 31.03.2014, the company had paid advances to its suppliers for purchase of diamonds. However, the same could not be delivered by the concern suppliers. All purchases and payments were duly accessible from books of accounts, bank statements etc. produced before him for verification at the time of audit. Therefore, as per general accounting practice, he had shown the same under the head "Trade Payables" only with negative figures being advance paid to supplier.
 - f. During the year ended on 31.03.2014, the company had received advances from its customers to fulfil their demand of diamonds. However, the same could not be delivered by the concern suppliers. Therefore, as per general accounting practice, he had shown the same under the head "Trade Receivables" only with negative figures being advance received from customers.
 - g. The Company has received advances from its customers for special type of diamonds but the same could not be delivered by the concerned company to the respective customers. Hence, there were negative outstanding of trade receivables in the balance sheet being advance received from customers. The Respondent further stated that XBRL schema did not allow filing negative figures against the head "trade receivables". Thus, being advance receipt from customers, he had disclosed the same under the head "trade payables"
6. The Director (Discipline) had in his Prima Facie Opinion held the Respondent Guilty on following allegations:

- a. **First allegation relating to improper/ misleading reporting regarding wrong reporting of clause 3 (vi) of CARO, 2015 in his report for financial year 2014-15:** The Director (Discipline) in the prima-facie opinion observed that requirement of Clause 3(vi) of CARO 2015 is to report about applicability/non-applicability of maintenance of cost records,

whereas the Respondent in his reporting has mentioned that cost records are maintained which shows his casual approach in reporting. The Director (Discipline) further noted that the Respondent referred to provisions of Companies Act, 1956 instead of the Companies Act, 2013. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie **GUILTY** on this allegation for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

- b. **Second allegation relating to incorrect reporting of clause 3 (v) and clause 3 (vii) (c) of CARO, 2015 in his report for the financial year 2014-15 in CARO reporting:** The Director (Discipline) in the prima-facie opinion observed that the Respondent as per clause 3(v) of CARO 2015 was required to report that whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules framed there under, where applicable, have been complied with if the company has accepted deposits and If not, the nature of contraventions should be stated. However the Respondent in his report has stated that the Company has not accepted any deposit from the public pursuant to Section 58A, 58AA or any other relevant provisions of the Companies Act 1956 and rules framed thereunder. Therefore, the provisions of clause (v) of the order are not applicable to the Company hence the Respondent has not properly reported the details related to acceptance of deposits by the Company as prescribed under the same. Further the Respondent has reported about the amount required to be transferred to "Investor education protection fund (IEPF)" in his audit report in Para 9(a). However, the Respondent was also required to report the same separately under CARO 2015 as per Paragraph 3(vii)(c) of the Companies (Auditor's Report) Order, 2015. It is noted by the Director (Discipline) that the Respondent being a statutory auditor of the Company while issuing CARO 2015 report has not properly reported details as prescribed under the same and this reflects the casual approach of the Respondent while reporting on CARO 2015. Accordingly, the Director

(Discipline) in the prima facie opinion held the Respondent prima facie GUILTY on this allegation for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

- c. **Third allegation relating to non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 in previous years' figures appearing in the Financial statements of 31.03.2015 with respect to the negative figure of Trade Payables, as on 31.03.2014 :** The Director (Discipline) in the prima-facie opinion observed that the Respondent in his submissions mentioned that reason of the negative balance is that the Company had paid advances to its suppliers for purchase of diamonds however, the same could not be delivered by the concerned suppliers. The Director (Discipline) observed that as per the requirement, the only amounts which are due on account of goods purchased or services are required to be mentioned under the head "Trade Payable" and since advance paid to supplier does not fall under the above classification, hence, the same should have been disclosed under the head advances paid to suppliers against goods. Hence, the presentation was not in line with the requirement of schedule III of the Companies Act 2013 and the Respondent had made a false statement in his report dated 28th August 2015 by stating that financial statements give true and fair view of the state of the Company's affairs of the Balance sheet at 31.03.2015. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie GUILTY on this allegation for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.
- d. **Fourth allegation relating to non-compliance with Section 129 read with Schedule-III part I of the Companies Act, 2013 in previous years' figures appearing in the Financial statements of 31.03.2015 with respect to the negative figure of Trade receivables as on 31.03.2014 :** The Director (Discipline) in the prima-facie opinion observed that the Respondent in his submissions mentioned that reason of the

negative balance is that the Company had received advances from its customer to fulfil their demand of diamonds and however, the same could not be delivered by the concerned suppliers. The Director (Discipline) observed that as per the requirement, the only amounts which are due on account of goods sold or services rendered are required to be mentioned under the head "Trade Receivable" and since the advance received from customer does not fall under the above classification, hence the same should be disclosed under the head advances received from customers against goods. Hence, the presentation was not in line with the requirement of schedule III of the Companies Act 2013 and the Respondent had made a false statement in his report dated 28th August 2015 by stating that financial statements give true and fair view of the state of the Company's affairs of the Balance sheet at 31.03.2015. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie **GUILTY** on this allegation for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

- e. **Fifth allegation regarding difference in figures of Trade receivables and Trade payables in the set for financial year ended 31.03.2014 submitted with MCA and the Income Tax:** The Director (Discipline) in the prima-facie opinion noted that in the XBRL balance sheet as at 31.03.2014 the Respondent has mentioned the trade payable amounting to INR 124,01,15,337 and trade receivable amounting to INR 89,08,36,063 while in Income Tax filing, the figures of trade payables is shown as Rs. (89,08,36,063) and trade receivables amounting to INR (124,01,15,337). The Respondent in his submissions mentioned that the reason for the negative balance is that the Company had paid advances to its suppliers for purchase of diamonds as well as received advances from its customer to fulfil their demand of diamonds. However, the same could not be delivered to the concerned buyers and that XBRL schema did not allow filing negative figures under the head Trade receivables as well as Trade Payables and therefore, advance received from customers is disclosed under the head "Other Current Liabilities" and advance paid

to suppliers disclosed under the head "Other Current Assets". The Director (Discipline) observed that such a type of presentation is not in line with the requirement of Schedule III of the Company's Act, 2013 and it is noted that the Respondent should have mentioned the figures as advance received from customers and advance paid to suppliers which should have been better and correct presentation. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie **GUILTY** on this allegation for professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

- f. **Sixth allegation relating to non-disclosure of Related party transactions in the set filed with Income Tax for the financial year ended 31.03.2014:** The Director (Discipline) in the prima-facie opinion noted that management had given necessary disclosure regarding to Related Party Transactions in XBRL report of the Company but failed to disclose the same in balance sheet filled with the income tax authority which the Respondent being a statutory auditor of the Company failed to point out that the Company had not properly disclosed Related party Transaction as per AS-18. Accordingly, the Director (Discipline) in the prima-facie opinion held the Respondent prima facie **GUILTY** on this allegation for professional misconduct falling within the meaning of Item(s) (5) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

7. Accordingly, the Director (Discipline) held the Respondent Prima Facie guilty of Professional Misconduct falling within the meaning of Items (5) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said clause to the Schedule to the Act, states as under:

Item (5) of Part I of Second Schedule

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

(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;"

Item (7) of Part I of Second Schedule:

"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."

8. The Committee noted that the Respondent in his submissions dated 15th January 2023 after Prima Facie Opinion had, inter-alia, mentioned as under:
- a. In response to the **first charge**, he submitted that he regrets that he followed the provisions of the Companies Act, 1956 when provisions of Companies Act, 2013 were applicable. He has accepted his error and submits that, as a qualified group of professionals, he understands the seriousness of this oversight and apologizes for the inaccuracies. Further, he submits that the same error will not be repeated in the future.
 - b. In response to the **second charge**, he accepted his mistake and unconditionally undertook that the company had accepted deposits which were required to be disclosed as per CARO. He further mentioned that it was merely a consequence of a typing error and subsequent oversight while finalizing the audit report. Further he was required to comment on the transfer of amount in IEPF and he understands the seriousness of the same although it has no impact on the decision making of the readers of the financial statements but being an ethical professional would take all possible actions to avoid such type of casualties.
 - c. In response to the **third and fourth charge** he admitted that the practice that was being followed could mislead the users of financial statements since it was not showing true and fair view of the affairs of the Company and the same is rightly pointed out by the competent authority. He further submitted that in future the same amount will be disclosed as per the relevant

provisions i.e. schedule III of the Companies Act, 2013 as prescribed by the Informant.

- d. In response to the **fifth charge**, he mentioned that he understands that such practice could mislead the users of financial statements and assure that the same amount in future will be disclosed as per the relevant provisions i.e. schedule III of the Companies Act, 2013.
- e. In response to the **sixth charge**, he mentioned that he assures that no such mistakes shall be committed in future. Further he has duly disclosed the related party disclosures in Tax audit report filed with income tax
- f. Further, he submitted that he, as a qualified and ethical professional, conducted the audit of a reporting entity with the utmost diligence, keeping in mind all the laws and our responsibilities as a statutory auditor. He made this error due to article assistants being involved in the preparation of audit reports.
- g. He is not denying the gravity of the charges levied on him but requesting the Committee to consider that while auditing the financial statements he has gone through all the material facts and information provided by the management of the entity and, wherever necessary, exercised professional skepticism to collect all possible evidence to base his opinion.
- h. That he does not have any intention to conceal any kind of material facts or defy readers of financial statements.

BRIEF FACTS OF THE PROCEEDINGS:-

9. The Committee noted that the instant case was fixed for hearing on following dates:

S.No.	Date	Status of Hearing
1.	31.05.2023	Part Heard & Adjourned
2.	25.08.2023	Adjourned on the request of the Respondent
3.	13.09.2023	Heard & Concluded

10. On the day of the first hearing, held on 31st May, 2023, the Committee noted that the Respondent was present through video conferencing mode. The

Respondent was administered on Oath. The Committee enquired from the Respondent as to whether he was aware of the charges. On the same, the Respondent replied in the affirmative and pleaded Not Guilty to the charges leveled against him. Thereafter, looking into the fact that this was the first hearing, the Committee decided to adjourn the hearing. With this, the hearing in the matter was partly heard and adjourned.

11. On the day of the second hearing held on 25th August 2023, the Committee noted that the Respondent, vide his mail dated 19th August 2023 had sought adjournment on grounds of personal reasons and to engage an authorized representative to defend his case. On consideration of the same, the Committee, on account of natural justice, acceded to the request of the Respondent and accordingly adjourned the case to a future date.
12. On the day of the final hearing held on 13th September 2023, the Committee noted that the Respondent was present through Video Conferencing Mode. The Committee noted that the Respondent made his written submissions dated 12th September 2023 i.e. day before the final hearing wherein he had inter-alia mentioned as under:
 - a. As regards the **first charge**, the same is a technical lapse. The same was human error and the concerned year of audit was the first transitional year.
 - b. As regards the **second charge**, the same was technical lapse and did not adversely affect anybody's interest.
 - c. As regards the **third and fourth charges**, the same are technical error of classification and presentation.
 - d. As regards the **fifth charge**, the same is attributable to the technical factor of XBRL format.
 - e. As regards the **sixth charge**, the same is technical lapse. The same is error and not gross negligence
 - f. That the same does not affect the true and fair view of the financials. The Respondent further mentioned that he will take care of the same in future.

12.1 Thereafter, the Committee, looking into the Respondent's submissions and his acceptance of guilt against the charges leveled, recorded his plea and proceeded in accordance with the provisions of Rule 18(8) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of cases) Rules, 2007.

12.2 After considering all papers available on record and after detailed deliberations and recording the submissions, the Committee decided to conclude the hearing in the instant case.

FINDINGS OF THE COMMITTEE

FIRST CHARGE BY DIRECTOR (DISCIPLINE)

13. The Committee noted that the first charge relates to improper/ misleading reporting regarding maintenance of cost records in his report for the financial year 2014-15. The Committee noted that the relevant extracts of Paragraph 3(vi) of Companies (Auditor's Report) Order, 2015 states as under:

"Where maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013 whether such accounts and records have been made and maintained."

13.1 The Committee noted that the Respondent in his audit report for the financial year 2014-15 in para (8), had mentioned as under:

"..we have broadly reviewed the books of accounts maintained by the Company pursuant to the order made by the Central government of India for maintenance of cost records under section 209(1)(d) of the Companies Act, 1956 and are of opinion that prima facie the prescribed accounts and records have been maintained".

- 13.2 From the above vis-à-vis submissions of the Respondent that the Company was engaged in trading of diamonds, however as per the provisions of the Companies Act/ Rules, maintenance of cost records is applicable to the concerns engaged in manufacturing activity. Hence, the Respondent was required to mention that maintenance of cost records is not applicable on the Company.
- 13.3 The Committee noted that the Respondent had referred to the provisions of Companies Act, 1956. However, the matter pertains to the financial year 2014-15 for which the provisions of the Companies Act 2013 were applicable.
- 13.4 Thus, looking into the above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that the Respondent was casual in his approach while issuing his audit report as statutory auditor of the Company for FY 2014-15. Accordingly, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

SECOND CHARGE BY DIRECTOR (DISCIPLINE)

14. The Committee noted that **second charge** is that Respondent in his CARO reporting, he has not reported about the deposits taken by the Company and the amount required to be transferred to the Investor Education and Protection Fund (IEPF) in his report for financial year 2014-15.

With respect to deposits, the Committee noted that the relevant extracts of Paragraph 3(v) of Companies (Auditor's Report) Order, 2015 states as under:

"In case the company has accepted deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules framed there under, where applicable, have been complied with? If not, the nature of contraventions should be stated; If an order has been passed by Company Law Board or

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National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not?"

- 14.1 The Committee noted that instead of mentioning about the same in his audit report, the Respondent in his audit report for the financial year 2014-15 in para 6, had mentioned as under:

"The Company has not accepted any deposit from the public pursuant to Section 58A, 58AA or any other relevant provisions of the Companies Act 1956 and rules framed thereunder. Therefore, the provisions of clause (vi) of the order are not applicable to the Company"

- 14.2 Thus, looking into above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that the Respondent being a statutory auditor of the Company while issuing report has not properly reported the detail as prescribed under the same. Further, it is noted that the Respondent has referred the provisions of Companies Act, 1956 whereas Companies Act 2013 was applicable on the company in year 2014-15. Thus, it is viewed that the Respondent was casual in his approach while issuing his audit report as statutory auditor of the Company for FY 2014-15. Thus, in light of the reasoning given above pertaining to instant charge, the Respondent is held **GUILTY** on this charge for professional misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949

15. With respect to Investor Education and Protection Fund (IEPF), the Committee noted that the relevant extracts of Paragraph 3(vii)(c) of Companies (Auditor's Report) Order, 2015 states as under:

"Whether the amount required to be transferred to investor education and protection fund in accordance with the relevant provisions of the Companies Act, 1956 (1 of 1956) and rules made there under has been transferred to such fund within time."

15.1 The Committee noted that instead of mentioning about the same in CARO reporting, the Respondent his audit report for the financial year 2014-15 in para 9(a), had mentioned as under:

"The Company has been regular in depositing undisputed statutory dues including provident fund, Investor Education and Protection fund, Employees State Insurance, Income Tax, sales tax, wealth tax, service tax, custom duty, excise duty, cess and other statutory dues with the appropriate authorities during the year. According to the information and explanations given to us, no undisputed amount payable in respect of the aforesaid dues were outstanding as at March 31, 2015 for period of more than six months from the date of becoming payable".

15.2 The Committee noted that Respondent was mandatorily required to report the same separately under CARO 2015 as per Paragraph 3(vii)(c) of Companies (Auditor's Report) Order, 2015.

15.3 Thus, looking into above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that although such type of error neither affects the true and fair view nor affects the decision making of any user of the financial statement of the Company, however, the auditor has not reported on Clause 3 vii (c) which reflects his casual approach of the Respondent while reporting on CARO 2015. Accordingly, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

THIRD CHARGE BY DIRECTOR (DISCIPLINE)

16. The Committee noted that the **third charge** related to non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 with respect to the negative figure of Trade Payables as on 31.03.2014 (appearing in previous years' figures of the Financial Statements of 31.03.2015). The Committee on perusal of records noted that in the Balance Sheet for the year

ended 31.03.2015 (filed with Income Tax Department). trade payables were shown as Rs 14,14,09,387/- and in the previous year (i.e., on 31.03.2014) trade payables were shown in bracket as Rs (89,08,36,063/-). The Committee noted that as per the charge, since the balance was negative in the previous years, hence it should be disclosed under Other Current Assets rather than Trade payable/Creditors.

16.1 The Committee noted that Section 129 of the Companies Act, 2013 states that:

"The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III".

16.2 The Committee noted that general instructions for preparation of Balance Sheet has been given in Schedule III of the Companies Act, 2013 and point 5 of such instructions specifically mentioned as under:

"A payable shall be classified as a —trade payable if it is in respect of the amount due on account of goods purchased or services received in the normal course of business."

16.3 Accordingly, the amounts which are due on account of goods purchased or services received are required to be mentioned under the head "Trade Payable" and since advance paid to suppliers does not fall under the above classification, hence, the same should have been disclosed under the head advances paid to suppliers against goods.

16.4 Thus, looking into the above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that since the advances paid to suppliers are not liability incurred towards purchase of goods and services, therefore, they shall not be disclosed as 'trade payables.' Such advances should be reported as 'other current assets' as income received in advance in line with Schedule III to the Companies Act, 2013. Such a type of presentation is not in line with the requirement of Section 129 read with Schedule III of the Companies Act. The Committee further noted that the Respondent had made a false statement in his

report by stating that financial statements gives true and fair view of the state of the Company's affairs as at 31.03.2015 (with respect to disclosure of Trade Payable under Sundry Creditors). Accordingly, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

FOURTH CHARGE BY DIRECTOR (DISCIPLINE)

17. The Committee noted that **fourth charge** related to non-compliance with section 129 read with Schedule-III part I of the Companies Act, 2013 with respect to the negative figure of Trade receivables as on 31.03.2014 (appearing in previous years' figures of the Financial Statements of 31.03.2015). The Committee on perusal of records noted that in the Balance Sheet for the year ended 31.03.2015 (filed with Income Tax Department), trade receivables were shown as Rs 2,13,14,597/- and in the previous year (i.e., on 31.03.2014) trade receivables were shown in bracket as Rs (124,01,15,337/-). The Committee noted that as per the charge, since the balance was negative in the previous years, hence it should be treated as Other Current Liability rather than trade receivables/debtors.

17.1 The Committee noted that Section 129 of the Companies Act, 2013 states that:

"The financial statements shall give a true and fair view of the state of affairs of the company or companies, comply with the accounting standards notified under section 133 and shall be in the form or forms as may be provided for different class or classes of companies in Schedule III".

17.2 The Committee noted that Paragraph 4 of General instructions for preparation of balance sheet given in Schedule III of the Companies Act, 2013 provides as under:

"A receivable shall be classified as a —trade receivable if it is in respect of the amount due on account of goods sold or services rendered in the normal course of business." ✕

- 17.3 Accordingly, the amounts which are due on account of goods sold or services rendered are required to be mentioned under the head "Trade Receivable" since advance received from customer does not fall under the above classification, the same should be disclosed under the head Advances received from customers against goods.
- 17.4 Thus, looking into the above facts vis-à-vis the acceptance of the mistake by the Respondent, the Committee viewed that advance received from customers shall not be disclosed as negative balance of trade receivables and thus as reduction from total assets. It was viewed that such disclosure not only distort the true and fair presentation of financial statements but also understate the liability of the company since such negative trade receivables are, in their true sense, the advance received from customers and ought to be disclosed as 'other current liabilities' in line with Schedule III to the Companies Act, 2013. Such type of presentation is not in line with the requirement of Section 129 read with Schedule III of the Companies Act and the Respondent had made a false statement in his report by stating that financial statements gives true and fair view of the state of the Company's affairs as at 31.03.2015 (with respect to disclosure of Trade Payable under Sundry Debtors). Accordingly, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

FIFTH CHARGE BY DIRECTOR (DISCIPLINE)

18. The Committee noted that the **fifth charge** is that there is difference in figures of Trade payables and Trade receivables in the set for the financial year ended 31.03.2014 submitted with MCA and the Income Tax.
- 18.1 The Committee noted that in the XBRL balance sheet the Respondent has mentioned Trade payable as Rs 1,24,01,15,337/- and trade receivable amounting to Rs. 89,08,36,063/- whereas in the balance sheet filed with the Income Tax Department the figures of trade payables is shown as Rs. 

(89,08,36,063/-) and trade receivables amounting to INR (1,24,01,15,337/-) as negative figures. The Committee further noted that Respondent in his submissions in this regard mentioned that reason of the negative balance is that the Company had received advances from its customers to fulfil their demands, on the other hand the Company has paid advances to its suppliers for the purchase of diamonds. However, the same could not be delivered/received by the concerned customers/suppliers. He further submitted that XBRL schema did not allow filing negative figures under the head Trade payables and Trade Receivables, therefore, advance received from customers is disclosed under the head "Other Current Liability" and advance paid to suppliers disclosed under the head "Other Current Assets".

- 18.2 The Committee noted that findings relating to similar charge had been given para 16 to 16.4 and 17 to 17.4 above wherein it is concluded by the Committee that such a type of presentation is not in line with the requirement of section 129 read with Schedule III of the Companies Act 2013. The Committee also viewed that the Respondent should have mentioned the figures as advance paid to supplier and advance received from customers under correct head of Balance Sheet for better and correct presentation. Looking into the findings given above vis-à-vis admission of the Respondent, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge also.

SIXTH CHARGE BY DIRECTOR (DISCIPLINE)

19. The Committee noted that the **sixth charge** is that no details of related party transactions have been mentioned in the set filed with Income Tax for the financial year ended 31.03.2014. The Committee noted that the Respondent in his Written Statement stated that has submitted that he has given the adequate disclosures in XBRL balance sheet.

- 19.1 The Committee in this regard noted that management had given the necessary disclosure regarding related party transactions in XBRL report of the Company but failed to disclose related party transactions in balance sheet filled with the income tax authority.
- 19.2 The Committee, in view of acceptance of the mistake by the Respondent vis-à-vis the fact that the Respondent being a statutory auditor of the Company failed to point out that the Company, has not properly disclosed Related party Transaction as per AS-18, noted that the Respondent was not only grossly negligent in duties but also failed to report known material fact in the financial statement. Accordingly, the Committee hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item(s) (5) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

CONCLUSION

20. In view of the above findings stated in the above para's vis-à-vis material on record, the Committee, in its considered opinion, holds the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Items (5) & (7) of Part-I of the Second Schedule to the Chartered Accountants Act, 1949.

sd/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

sd/-

(MRS. RANI NAIR, I.R.S. RETD.)
GOVERNMENT NOMINEE

sd/-

(SHRI ARUN KUMAR, I.A.S, RETD.)
GOVERNMENT NOMINEE

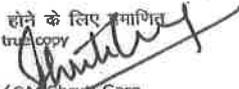
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(CA. SRIDHAR MUPPALA)
MEMBER

DATE: 14TH DECEMBER, 2023

PLACE: NEW DELHI

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy


श्रीए श्रुति गर्ग / CA Shruat Garg
सहायक निदेशक / Assistant Director
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, कानून नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vasthwa Nagar, Shahdara, Delhi-110032