



भारतीय सनदी लेखाकार संस्थान
(संसदीय अधिनियम द्वारा स्थापित)

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

PR-278/18/DD/281/2018/DC/1361/2020

[DISCIPLINARY COMMITTEE [BENCH-II (2024-2025)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

**ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH
RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATIONS OF
PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007**

[PR-278/18/DD/281/2018/DC/1361/2020]

In the matter of:

Mr. Sabir Jaseem Shaikh,
401, A/2, Hill Park,
Agarwal Estate, Captain Samant Marg,
Jogeshwari (West),
Mumbai – 400102.

.....Complainant

Versus

CA. Sushil Suresh Bajaj (M. No.131144)
Flat no. 5, Wing B.,
S No 47 CTS 6363,
Sainandanvan Hsg Society, Vadgaon Sheri,
Pune – 411014.

.....Respondent

MEMBERS PRESENT:-

CA. Ranjeet Kumar Agarwal, Presiding Officer (in person)
Mrs. Rani S. Nair, IRS (Retd.), Government Nominee (through VC)
Shri Arun Kumar, IAS (Retd.), Government Nominee (in person)
CA. Sanjay Kumar Agarwal, Member (in person)
CA. Cotha S Srinivas, Member (in person)

Date of Hearing: 19th March, 2024

Date of Order: 9th May, 2024

1. That vide Findings 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, inter-alia, of the opinion that **CA. Sushil Suresh Bajaj (M. No.131144)** (hereinafter referred to as the '**Respondent**') is **GUILTY** of Professional Misconduct falling within the meaning of Item (7) Part I of Second Schedule to the Chartered Accountants Act 1949.

2. That pursuant to the said Findings, an action under Section 21B(3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication was addressed to him thereby granting an opportunity of being heard in person / through video conferencing and to make representation before the Committee on 19th March 2024.

3. The Committee noted that on the date of hearing held on 19th March 2024, the Respondent was present through video conferencing and made his verbal representation on the Findings of the Disciplinary Committee, inter-alia, stating that he qualified his CA examination in 2008 and joined the firm in 2016. His Digital signature was in the custody of the firm which had been misused by office staff for which a complaint was made to the senior partner of the firm through email. The instant client was not in his portfolio of clients. However, he had worked in good faith at the request of his senior partner. He further Mr. Sabir Jaseem Shaikh -vs- CA. Sushil Suresh Bajaj (M. No.131144)



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requested for a lenient view in the case as he is a victim of the conspiracy of the firm. The Committee also noted that that the Respondent in his written representation, inter-alia, stated as under:

(a) the admission of Mr. Adil Khan as a director was done with digital signature of Mr. Sabir Jassem Shaikh which was also attested by CA. Sachin Gupta.

(b) Further, the email is very clear about the fact that the DSC of Mr. Sabir Jaseem Shaikh was required to be affixed by UJA Mumbai office.

4. The Committee considered the reasoning as contained in Findings holding the Respondent Guilty of Professional Misconduct vis-à-vis written and verbal representation of the Respondent.

5. Keeping in view the facts and circumstances of the case, material on record including verbal and written representations on the Findings, the Committee held that that the Respondent while certifying the e-Forms, failed to exercise due diligence and also failed to check that other directors were not eligible to sign the e-Forms as they were disqualified directors. Hence, the Professional Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 7th February 2024 which is to be read in consonance with the instant Order being passed in the case.

6. Accordingly, the Committee was of the view that ends of justice will be met if punishment is given to him in commensurate with his professional misconduct.

7. Thus, the Committee ordered that **CA. Sushil Suresh Bajaj (M. No.131144), Pune be reprimanded and also a Fine of Rs. 30,000/- (Rupees Thirty Thousand only) be imposed upon him payable within a period of 60 days from the date of receipt of the Order.**

sd/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

sd/-

(MRS. RANI S. NAIR, IRS RETD.)
GOVERNMENT NOMINEE

sd/-

(SHRI ARUN KUMAR, IAS RETD.)
GOVERNMENT NOMINEE

sd/-

(CA. SANJAY KUMAR AGARWAL)
MEMBER

sd/-

(CA. COTHA S. SRINIVAS)
MEMBER

Mr. Sabir Jaseem Shaikh -vs- CA. Sushil Suresh Bajaj (M. No.131144)

CONFIDENTIAL

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: PR-278/18/DD/281/2018/DC/1361/2020

In the matter of:

Mr. Sabir Jaseem Shaikh,

401, A/2, Hill Park,
Agarwal Estate, Captain Samant Marg,
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Mumbai – 400102

.....Complainant

Versus

CA. Sushil Suresh Bajaj (M. No.131144)

Flat no. 5, Wing B.,
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Sainandanvan Hsg Society, Vadgaon Sheri,
Pune – 411014

.....Respondent

MEMBERS PRESENT:

Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee & Presiding Officer (in person)

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

CA. Sanjay Kumar Agarwal, Member (in person)

CA. Sridhar Muppala, Member (through VC)

DATE OF FINAL HEARING: 17.11.2023

DATE OF JUDGEMENT : 14.12.2023

PARTIES PRESENT:

Complainant : Mr. Sabir Jaseem Shaikh (From ICAI Mumbai Office)

Counsel for Complainant: Mr. Chirag Vazani, Advocate (From ICAI Mumbai Office)

Counsel for Respondent : CA. Sharad Vaze (Through VC)

BACKGROUND OF THE CASE: -

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

- a. That the Complainant has been the Promoter and Director of **M/s Sufon Hydraulic Pvt Ltd** (*hereinafter* referred to as the “**Company**”) since its incorporation in April 2004 and holds 65% of the shares of the Company on the date of filing of the complaint.
- b. That according to the Complainant, Mr. Mohd. Hamid Khan (one of the Directors in the Company) stole his Digital Signature certificate from the office of Mr. Khan Muslim on 24th May 2018 and a complaint in this regard was lodged in the Amboli Police Station on 29th May 2018.
- c. As regards the role of the Respondent in the instant matter, he had filed following forms:
 - (i) DIR -12 – Regarding appointment of Mr. Adil Khan S/o Mohd. Hamid Khan as director
 - (ii) DIR -12 – Regarding Complainant’s cessation as Director
 - (iii) DIR -12 – Regarding appointment of Mr. Shamim Akhtar Khan S/o Mohd. Hamid Khan as director
- d. It was alleged that while certifying the above e-forms, the Respondent failed to exercise due diligence and also failed to check that other directors were not eligible to sign the e-forms as they were disqualified directors.

CHARGES IN BRIEF: -

2. The Committee noted that various instances of professional misconduct were highlighted which were as under:

S. No.	Allegations	View of Director (Discipline)
1.	Respondent was involved in stealing of digital signature of the Complainant	Held Not Guilty

2.	Respondent was aware that Mr. Mohd. Hamid Khan and Ms. Nikhat Hamid Khan were not qualified directors to sign any e-form of the Company.	Held Not Guilty
3.	Certification of DIR-12 regarding appointment of Mr. Adil Khan and Mr. Shamim Akhtar Khan without due-diligence and misusing the digital signature of Complainant	Held Guilty
4	Certification of DIR-11 regarding resignation of the Complainant as Director of the Company	Held Not Guilty
5.	Certification of DIR-12 regarding resignation of the Complainant as Director of the Company	Held Guilty
6.	Certification of e-form for increase in authorized Share Capital and paid-up capital of the Company	Held Not Guilty

3. The Committee noted that the Respondent at the stage of PFO, regarding the allegations wherein he was held guilty had, inter-alia, mentioned as under:
- a. That the aforesaid allegations were wrong and devoid of truth.
 - b. That a memorandum of settlement was executed between the Complainant and Mr. Mohd. Hamid Khan on 28th March 2018 and the same was evidencing that the Complainant had himself resigned as a director of the Company and declared that he would not represent that he was a director or be in any manner connected to the Company after his resignation.
 - c. That he filed e-form DIR 12 for appointment of Mr. Adil Khan after examining and verifying the following documents produced by the Company –
 - i. Form DIR-2 duly signed by Mr. Adil Khan giving his consent to act as Director.
 - ii. Certified true copy of the Board Resolution dated 27th March 2018 passed by the Board of Directors of the Company.
 - iii. Letter dated 27th March 2018 issued by the Company to Mr. Adil Khan.

- d. That he filed the e-form DIR 12 for appointment of Mr. Shamim Akhtar Khan after examining and verifying the following documents produced by the Company –
- i. Form DIR-2 duly signed by Mr. Shamim Akhtar Khan giving his consent to act as Director.
 - ii. Certified true copy of the Board Resolution dated 18th June 2018 passed by the Board of Directors of the Company.
 - iii. Appointment Letter dated 18th June 2018 issued by the Company to Mr. Shamim Akhtar Khan.
- e. That in respect of filing of DIR-12 regarding resignation of the Complainant as director of the Company, he relied upon Memorandum of Settlement, Resignation letter dated 29th March 2018 and acceptance letter before certifying the aforesaid e-form DIR-12.
4. The Director (Discipline) had, in his Prima Facie Opinion, held the Respondent prima facie Guilty on the following Charges: -

4.1 First Charge relating to Certification of DIR-12 regarding appointment of Mr. Adil Khan and Mr. Shamim Akhtar Khan without due-diligence and misusing the digital signature of Complainant.

The Director (Discipline) observed the following:

- a. That for certification of DIR -12 regarding appointment of Mr. Adil Khan and Mr. Shamim Khan, the Respondent relied upon DIR-2 (consent to act as Director), certified true copy of the Board Resolution and letters written by the Company to them.
- b. In case of appointment of Mr. Adil Khan, the Complainant alleged that his digital signature has been misused in certification of DIR-12. In this regard, it was noted that the Complainant has given resignation on 29th March 2018 and Board of Director accepted the resignation of the Complainant in its meeting held on 29th March 2018.

- c. As per Section 168 (2) of the Companies Act, 2013,

“The resignation of a director shall take effect from the date on which the notice is received by the company or the date, if any, specified by the director in the notice, whichever is later”.

- d. From the above, it became clear that the Complainant vacated his office from the date on which his resignation letter has been accepted by the Board of Directors. However, it was noted that DIR-12 certified by the Respondent for appointment of Mr. Adil Khan was also digitally signed by the Complainant on 11th June 2018.
- e. Keeping in view the provision of Section 168(2) of the Companies Act, 2013, a question arose as to when the Complainant vacated the office of director of the Company on 29th March 2018 then how could he digitally sign the DIR-12 on 11th June 2018 in the capacity of director of the Company.
- f. The Respondent did not provide any submissions / clarification on the same.
- g. Before certifying the DIR-12 regarding appointment of Mr. Adil Khan, the Respondent was required to check as to whether a person who is digitally signing the e-form as director is in fact eligible to sign the same as director of the Company or not.
- h. In respect of certification of DIR-12 by the Respondent regarding appointment of Mr. Shamim Khan, it was noted that though the Complainant had not certified the DIR-12 in his capacity as director but keeping in view the fact that the said DIR-12 was authenticated by Mr. Adil Khan in his capacity as director whose appointment was under question, the Respondent could not be exonerated at this stage for this allegation.
- i. The Respondent failed to check the same and accordingly appears to have failed to exercise due diligence before certifying the DIR-12 regarding appointment of Mr. Adil Khan and Mr. Shamim Khan.

- j. In view of the above, the Respondent was held **Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

4.2 Second Charge relating to Certification of DIR-12 regarding resignation of the Complainant as Director of the Company.

The Director (Discipline) observed the following:

- a. It was noted that in Form DIR 12, the Respondent as a professional certified as under:

“I declare that I have been duly engaged for the purpose of certification of this form. It is hereby certified that I have gone through the provisions of the Companies Act, 2013 and Rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original / certified records maintained by the Company/applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed.”

- b. From the above records, it was clear that before certifying the DIR-12, the Respondent was required to be properly appointed and was required to verify the particulars of DIR-12 with the original / certified records maintained by the Company. In the instant case, the Respondent brought on record copy of documents such as Memorandum of Settlement, Resignation letter dated 29th March 2018 and acceptance letter before certifying the aforesaid e-form DIR-12.
- c. Further, Affidavit brought on record by the Respondent of Mr. Mohd. Hamid Khan mentions that the original resignation letter of the Complainant along with the certified copy of the extract of board minutes dated 29th March 2018 was produced to the Respondent. Though it appears that the Respondent has relied upon requisite documents for certifying the DIR-12 yet keeping in view the facts that the appointment of director, Mr. Adil Khan who certified the DIR-12 for

resignation of the Complainant, was under question, he cannot be exonerated at this stage.

- d. In view of the above, the Respondent was held **Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.
5. In view of the above, it was felt that benefit of doubt in the instant case cannot be extended to the Respondent and he was held prima facie **GUILTY** for Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949. The said item in the Schedule to the Act states as under –

Item (7) of Part I of the 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.

Submissions of the Respondent on Prima Facie Opinion:

6. The Respondent had made further submissions dated 18th December 2020 in response to Prima Facie Opinion. The gist of those submissions is as under:
- a. That the Respondent had certified DIR-12 of Mr. Adil Khan and Mr. Shamim Akhtar Khan based on DIR-2 signed by them, respective Board Resolutions and Appointment Letters issued by the Company to them.
- b. That filing of form with the Registrar of Companies was only a procedural matter and the resignation as well as appointment of the directors is effective from the date of resignation itself as provided in the form. It was, therefore, submitted that even if the form was filed later, it does not have any bearing on the resignation of Complainant.
- c. That filing of forms with ROC is purely a ministerial act. It is a matter of common knowledge that the name of the signatory continues to appear on the MCA records unless the relevant form is filed with ROC.

- d. In the present case, the name of the complainant was appearing as signatory to entitle to file form on MCA portal, hence, the signatures affixed cannot be doubted.
- e. That he certified DIR-12 of Complainant based on memorandum of settlement, his resignation letter and acceptance letter of the Company.
- f. That he was required to peruse the originals and give the certificate based on the documents. It was submitted that since the originals were placed before him hence there was no occasion for the Respondent to doubt the veracity of the documents as well as the Digital Signatures affixed on the documents.
- g. That filing of form with ROC was only a procedural matter and it does not have any bearing on the resignation of the Complainant.
- h. That he had been caught in crossfire on account of dispute between the directors of the Company and he had digitally signed the forms after the original documents were produced before him.

BRIEF FACTS OF THE PROCEEDINGS: -

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

S. No.	Date	Status of Hearing
1.	27.12.2021	Adjourned due to paucity of time
2.	11.04.2023	Part Heard & Adjourned
3.	23.06.2023	Part Heard & Adjourned
4.	24.07.2023	Part Heard & Adjourned
5	10.08.2023	Adjourned on request of the Complainant
6.	17.11.2023	Concluded & Judgment reserved
7.	14.12.2023	Final decision taken on the case

8. On the day of first hearing held on 11th April 2023, the Committee noted that the Complainant along with his Counsel Mr. Chirag Vajani, Advocate was present from BKC office, Mumbai of ICAI. The Committee further noted that the Respondent *vide* his email dated 8th April 2023 sought adjournment due to his unavailability on some personal unavoidable reasons. The Complainant was administered on Oath. Thereafter, looking into the adjournment request by the Respondent and the fact

that this was the first hearing before the present bench, the Committee decided to adjourn the hearing to a future date. With this, the hearing in the matter was partly heard and adjourned.

9. On the day of second hearing held on 23rd June 2023, the Committee noted that the Complainant along with his counsel Mr. Chirag Vajani, Advocate was present from BKC office, Mumbai of ICAI. The Respondent along with his Counsel CA. Sharad Vaze was present through Video Conferencing Mode. The Respondent was administered on Oath. Thereafter, 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 levelled against him.

9.1 Thereafter, the Complainant explained the charges against the Respondent. The Counsel of the Respondent presented his line of defense in detail. The Committee posed certain questions to both parties to understand the issue involved and role of the Respondent in the case.

9.2 Thereafter, the Committee gave directions to the Complainant to submit the following documents/ information:

a. Gist of proceedings pending with other statutory authorities and their present status.

The Committee also directed the Complainant to submit a copy of the same to the Respondent also. With the above, the Committee decided to adjourn the hearing.

10. On the day of third hearing held on 24th July 2023, the Committee noted that the Complainant sought adjournment on the grounds of the non-availability of his counsel. The Respondent was informed about the adjournment request of the Complainant. Thereafter, in the absence of Complainant, the Committee enquired from the Respondent about the receipt of documents from the Complainant. The Respondent replied affirmatively.

10.1 Thereafter, the Committee, on account of natural justice, decided to adjourn the case to a further date. With this, the hearing in the matter was partly heard and adjourned.

11. On the day of fourth hearing held on 10th August 2023, the Committee noted that the Respondent along with his Counsel CA Sharad Vaze was present through Video Conferencing Mode. The Complainant along with one Mr. Haresh Jodha was present from BKC office, Mumbai of ICAI. The Complainant submitted that his arguing Counsel i.e., Mr. Chirag Vajani, Advocate was not available for hearing and hence he sought an adjournment to make submissions. Thereafter, the Committee, on account of natural justice, decided to adjourn the case to a further date. With this, the hearing in the matter was adjourned.
12. On the day of final hearing held on 17th November 2023, the Committee noted that the Complainant along with his counsel Mr. Chirag Vajani, Advocate was present from BKC office, Mumbai of ICAI. The Respondent along with his Counsel CA Sharad Vaze was present through Video Conferencing Mode.
- 12.1 The Committee further noted that the Complainant along with his counsel presented the submissions in detail with regards to the charge levelled against the Respondent for misusing of digital signature. Both the parties made their submissions in length.
- 12.2 On a specific question to the Respondent about how he established that the document relating to resignation of the Complainant is not forged, he submitted that the resignation of the Complainant was given to him as an attachment in email. The Committee posed certain questions to both parties to understand the issues involved and the role of Respondent in the case.
- 12.3 Thereafter, the Committee gave directions to the Respondent to submit within 10 days the following documents:
- a. Copy of an email whereby the resignation letter of the complainant was given to him.
 - b. Copy of financial statements after March 2018.
 - c. IP address from where the document in question has been uploaded.
 - d. Further submissions, if any.

- 12.4 The Committee also gave directions to the Complainant to submit within 10 days the following documents:
- a. Copy of financial statements after financial year 2018.
 - b. IP address from where the document in question has been uploaded.
 - c. Any other submissions in support of his case.
- 12.5 After considering the documents available on records and the submissions made by the Respondent/ his Counsel and the Complainant, the Committee decided to conclude the hearing and reserved its judgment.
- 13 Thereafter, this matter was placed in a meeting held on 14th December 2023 for final decision for consideration of the facts and arriving at a decision by the Committee. The Committee noted that the above case was concluded on 17th November 2023 and pursuant to its direction, the Respondent *vide* letter dated 7th December 2023 and the Complainant *vide* email dated 3rd December 2023 had submitted their submissions/documents.
- 14 Accordingly, keeping in view the facts and circumstances of the case, the material on record and the submissions of the parties, the Committee passed its judgement.

FINDINGS OF THE COMMITTEE: -

- 15 The Committee noted that charges against the Respondent are inter-related to each other, as the first charge is based on using of Complainant's digital signature for appointment of directors when he was not a director on the day of certification whereas the second charge relates to certification of e-form relating to resignation of Complainant.
- 16 The Committee noted that verdict on first charge is dependent on the second charge. Hence, the Committee decided to consider second charge first.
- 17 The Committee noted the **second charge** of Certification of DIR-12 regarding resignation of the Complainant as Director of the Company.

- 17.1 The Committee noted that the Respondent in his defense had mentioned that he had checked Memorandum of Settlement, Resignation letter of the Complainant and acceptance letter before certifying the aforesaid e-form DIR-12. He had also brought on record a copy of Affidavit of Mr. Mohd. Hamid Khan confirming the submissions of the Respondent.
- 17.2 The Committee further noted that on the day of final hearing, the Respondent had categorically mentioned that he had certified the alleged e-form relating to resignation of the Complainant on the basis of resignation letter received on his email.
- 17.3 The Committee noted that it had specifically directed to submit a copy of such e-mail whereby the resignation letter of the Complainant was given to him. However, he has failed to provide the same and submitted in his defence that he was a partner in M/s Udyen Jain and Associates when his DSC was used in Form DIR 12 and at that point of time, his e-mail id was “*sushil@uja.in*”. Subsequently, he left the said Firm in 2019 and his e-mail id was then deactivated which cannot be retrieved.
- 17.4 The Committee further noted that as regards other documents mentioned in earlier paragraphs such as IP address from where such e-forms were uploaded and copy of Balance Sheet for the Financial year after March 2018, the Respondent as regards other documents expressed his inability in providing the same.
- 17.5 The Committee noted that the Respondent himself had given a declaration that he has checked the original/certified copies but at the time when the Committee directed him to produce the same, he failed to bring those documents on record.
- 17.6 The Committee observed that the Respondent at prima-facie stage in his written statement instead of submitting his source document had chosen to submit an affidavit dated 6th December 2018 from Mohd. Hamid Khan in his defence. Further, at the time of submissions of written statement at prima-facie stage on 11th December 2018 he was partner in M/s Udyen Jain and Associates and was in

a position to submit the email to the disciplinary Directorate. Accordingly, the Committee noted that there is no such email on record and this was just an afterthought of the Respondent.

17.7 The Committee noted that in the absence of any positive evidence in his defence, the bonafide of the Respondent cannot be established. The Committee accordingly concluded that the Respondent failed to exercise requisite due diligence in conduct of his professional duties.

17.8 Accordingly, the Respondent is held **Guilty** with respect to the above charge of professional misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

18 The Committee noted the **first charge** of Certification of DIR-12 regarding appointment of Mr. Adil Khan and Mr. Shamim Akhtar Khan without due-diligence and misusing the digital signature of Complainant.

18.1 The Committee, on perusal of the said e-form, noted that this e-form was uploaded with the digital signature of the Complainant on 11th June 2018.

18.2 The Committee noted that on one side the Respondent had taken the plea that the Complainant had resigned from the Company on 29th March 2018 and Board of Directors had accepted his resignation on same day. On other hand, when DIR-12 was certified regarding appointment of Mr. Adil Khan using Complainant's digital signature on 11th June, 2018 then he should not have certified the Form as the Complainant was not a director of the Company.

18.3 As per Section 168 (2) of the Companies Act, 2013, "*The resignation of a director shall take effect from the date on which the notice is received by the Company or the date, if any, specified by the director in the notice, whichever is later*".

18.4 Hence, the appointment of Mr. Adil Khan was not valid as the Complainant had already resigned as per records available with the Respondent. The Committee further noted that the Respondent failed to provide IP address which was used in certification work performed by him.

- 18.5 Accordingly, the Committee noted that the Respondent failed to exercise due diligence in certification of said e-form.
- 18.6 The Committee further noted that in DIR-12 certification regarding appointment of Mr. Shamim Khan, the Digital Security Certificate (DSC) of the Complainant was not used but Digital Security Certificate (DSC) of Mr. Adil Khan was used. But the important point here is that when the appointment of Mr. Adil Khan was not valid then how could his DSC be used to appoint Mr. Shamim Khan.
- 18.7 Hence, the Respondent without due diligence certified Form DIR 12 which he should not have done the same.
- 18.8 The Committee, upon consideration of documents and submissions on record, noted that the Respondent while certifying the e-forms, failed to exercise due diligence and also failed to check that other directors were not eligible to sign the e-forms as they were disqualified directors. Furthermore, he did not produce any document in his defence. Accordingly, the Respondent is held **Guilty** with respect to the above charge of professional misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

CONCLUSION

- 19 In view of the findings stated in the above paragraphs vis-a-vis material on record, the Committee, in its considered opinion, 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.

SD/-
(MRS. RANI NAIR, I.R.S. RETD.)
PRESIDING OFFICER

SD/-
(MR. ARUN KUMAR, I.A.S. RETD.)
GOVERNMENT NOMINEE

SD/-
(CA. SANJAY KUMAR AGARWAL)
MEMBER

SD/-
(CA. SRIDHAR MUPPALA)
MEMBER

DATE: 07TH FEBRUARY, 2024
PLACE: NEW DELHI