



भारतीय सनदी लेखाकार संस्थान  
(संसदीय अधिनियम द्वारा स्थापित)  
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA  
(Set up by an Act of Parliament)

[DISCIPLINARY COMMITTEE [BENCH-IV (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/G/335/17/DD/344/2017/DC/1340/2020]

In the matter of:

**Sh. Gaurav Bansal**

Deputy Director of Income Tax (Inv)-III,  
Office of the Deputy Director of Income Tax (Inv)-III  
HSIIDC Building,  
Udyog Minar Phase-V,  
Gurugram (HARYANA)

.... Complainant

Versus

**CA. Narinder Kumar (M. No. 097974)**

House No. 872,  
2nd Floor, Sector – 7,  
Faridabad  
HARYANA-121006

.... Respondent

MEMBERS PRESENT:

1. CA. Ranjeet Kumar Agarwal, Presiding Officer (In person)
2. Shri Jiresh Nandan, I.A.S (Retd.), Government Nominee (In person)
3. Ms. Dakshita Das, I.R.A.S. (Retd.), Government Nominee (Through VC)
4. CA. Mangesh P Kinare, Member (Through VC)
5. CA. Abhay Chhajed, Member (In person)

DATE OF HEARING : 19<sup>th</sup> MARCH, 2024

DATE OF ORDER : 16<sup>th</sup> May, 2024

1. That vide Findings dated 05.02.2024 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. Narinder Kumar (M. No. 097974)** (hereinafter referred to as the **Respondent**) is **GUILTY** of Professional and Other

Order- CA. Narinder Kumar (M. No. 097974)



# भारतीय सनदी लेखाकार संस्थान

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Misconduct falling within the meaning of Clauses (5), (6), (7) and (8) of Part I of Second Schedule and Clause (2) of Part-IV of First 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 19<sup>th</sup> March 2024.

3. The Committee noted that on the date of hearing on 19<sup>th</sup> March 2024, the Respondent was not present, despite the fact that notice of the present meeting was duly served upon him through speed post and email. The Committee further noted that the Respondent neither appeared at the stage of hearing(s) in instant matter despite extending him several opportunities, nor he made any submissions on prima facie opinion of the Director (Discipline) holding him GUILTY of Professional and Other Misconduct. The Committee also noted that the Respondent did not make any written submissions at the hearing stage as well as at the punishment stage.

4. The Committee considered the reasoning as contained in Prima Facie Opinion/Findings holding the Respondent 'Guilty' of Professional and Other Misconduct.

5. Thus, keeping in view the facts and circumstances of the case and material on record, the Committee noted that ample opportunities were granted to the Respondent to defend the charges, but he failed to appear before it at the stage of hearing and at the stage of punishment. The Respondent also failed to file any submission to defend the charges contained in the prima facie opinion/Findings. The Committee noted that it had accepted the reasoning given against the charge(s) holding the Respondent guilty of Professional and Other Misconduct in Prima Facie Opinion of the Director (Discipline). Hence, the Professional and Other Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 05<sup>th</sup> 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 the ends of justice would be met if punishment is given to him in commensurate with his Professional and Other Misconduct.

*CA*



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7. Thus, the Committee ordered that the name of the Respondent i.e., CA. Narinder Kumar (M. No. 097974) be removed from the register of members for a period of 01 (One) year.

Sd/-

(CA. RANJEET KUMAR AGARWAL)

PRESIDING OFFICER

Sd/-

(SHRI JIWESH NANDAN, I.A.S. {RETD.})

GOVERNMENT NOMINEE

Sd/-

(MS. DAKSHITA DAS, I.R.A.S. {RETD.})

GOVERNMENT NOMINEE

Sd/-

(CA. MANGESH P KINARE)

MEMBER

Sd/-

(CA. ABHAY CHHAJED)

MEMBER

सही प्रतिलिपि होने के लिए प्रमाणित  
Certified to be true copy

*Charan Singh*

चरण सिंह / Charan Singh

कार्यकारी अधिकारी / Executive Officer

अपुनरात्मनस्य विभाग / Disciplinary Directorate

भारतीय सनदी लेखाकार संस्थान

The Institute Chartered Accountants of India

आइसीएआई भवन, विवेक नगर, गांधीपुरा, दिल्ली-110032

ICAI Bhawan, Vishwa Nagar, Gandhi, Delhi-110032

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – IV (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/G/335/17/DD/344/2017/DC/1340/2020]**

**In the matter of:**

**Sh. Gaurav Bansal**  
**Deputy Director of Income Tax (Inv)-III,**  
**Office of the Deputy Director of Income Tax (Inv)-III**  
**HSI IDC Building,**  
**Udyog Minar Phase-V,**  
**Gurugram (HARYANA)**

**.... Complainant**

**Versus**

**CA. Narinder Kumar (M. No. 097974)**

**House No. 872,**  
**2<sup>nd</sup> Floor, Sector – 7,**  
**Faridabad**  
**HARYANA-121006**

**.... Respondent**

**MEMBERS PRESENT:**

**CA. Ranjeet Kumar Agarwal, Presiding Officer (Through VC at ICAI, Kolkata)**  
**Shri Jiwesh Nandan, I.A.S. (Retd.), Government Nominee (in person)**  
**Ms. Dakshita Das, I.R.A.S. (Retd.), Government Nominee (Through VC)**  
**CA. Mangesh P Kinare, Council Member (Through VC)**  
**CA. Cotha S Srinivas, Member (Through VC)**

**DATE OF FINAL HEARING : 28<sup>th</sup> November, 2023**

**PARTIES PRESENT**

**Complainant : Not Present**  
**Respondent : Not Present**

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**1. Background of the case: -**

A search operation was conducted in case of M/s. Spaze Group, Gurugram by the Complainant Department on 17.02.2016 on account of taking non-genuine purchase/ accommodation entries from the firms operated and controlled by Delhi based entry operator Sh. Kishori Saran Goel. Sh. Kishori Saran Goel has admitted the fact before the Income Tax Authorities during investigation that the firms/proprietorship concerns controlled and managed by him were mere paper entities and not doing any actual business. The searched entity, M/s. Spaze Towers Pvt. Ltd. through its all directors accepted the fact of taking accommodation entries from the entities controlled by Sh. Kishori Saran Goel in the form of bogus purchases amounting of Rs. 52.73 Crores and paid due taxes on the same.

**2. Charges in brief: -**

2.1 The Respondent has conducted the audit of the entities, which were mere paper entities managed by Shri Kishori Saran Goel and these entities had provided accommodation entities to M/s. Spaze Group.

**3. The relevant issues discussed in the Prima facie opinion dated 22<sup>nd</sup> November,2019 formulated by Director (Discipline) in the matter in brief is given below: -**

3.1 The allegation against the Respondent is that he had conducted the audit of the entities in question managed by Sh. K.S. Goel which were providing accommodation entities to M/s Spaze Group and were not conducting any genuine business. The Respondent had brought on record some documents such as Tax Auditor's Appointment letter, Audited Financial Statement (F.Y. 2014-15) along with annexures, Copy of audit Report uploaded at Income Tax website and reconciliation of Sales/Purchase with copies of DVAT return and Summary of Sales/Services etc.. The Respondent has tried to substantiate/justify the existence as well as genuineness of the transactions done by these firms and proving that the entities were not mere paper entities as being alleged by the Complainant.

However, it is felt that these documents are not much germane to the allegation against him which is primarily regarding having conducted the tax audit of the entities engaged in providing accommodation entries. The relevant evidence which could have substantiated the stand of the Respondent that he had conducted the audit after examination of relevant records of the entities were his audit working papers which he had failed to submit and bring on record. It would have been prudent on his part to provide his working papers prepared by him while carrying out verification procedures and retained by him as evidence/ audit documentation to substantiate the due diligence being adopted by him while carrying out the audit assignments.

3.2 In view of above, the Director (Discipline) in the Prima-Facie Opinion dated 22<sup>nd</sup> November 2019 formed in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, had held the Respondent prima facie **GUILTY** of Professional and "Other Misconduct" falling within the meaning of Clauses (5), (6), (7) & (8) of Part I of the Second Schedule and Clause (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949. The said Clauses to the Schedules to the Act, states as under:

Clause (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;*

Clause (6) of Part I of Second Schedule:

A Chartered Accountant in practice shall be deemed to be guilty of professional misconduct if he-

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

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Clause (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;*

Clause (8) of Part I of Second Schedule:

A Chartered Accountant in practice shall be deemed to be guilty of professional misconduct if he-

*(8) fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion*

Clause (2) of Part IV of First Schedule:

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

*(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.*

3.3 The Prima Facie Opinion formed by Director (Discipline) was considered by the Disciplinary Committee at its meeting held in July 2020. The Committee on consideration of the same, concurred with the reasons given against the charges and thus, agreed with the prima facie opinion of the Director (Discipline) that the Respondent is prima facie **GUILTY** of Professional Misconduct and other misconduct falling within the meaning of Clauses (5), (6), (7) & (8) of Part I of the Second Schedule and Clause (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The Committee also directed the Directorate that in terms of the provisions of sub-rule (2) of Rule 18, the prima facie opinion formed by the Director (Discipline) be sent to the Complainant and the Respondent including particulars or documents relied upon by the Director (Discipline), if any, during the course of formation of prima facie opinion and the

Respondent be asked to submit his Written Statement in terms of the provisions of the aforesaid Rules, 2007.

**4. Date(s) of written submissions/pleadings by parties:**

The relevant details of filing of documents in the instant case by the parties are given below:

S.No.	Particulars	Dated
1.	Complaint in Form 'I' filed by the Complainant	27th October 2017
2.	Written Statement filed by the Respondent	2nd January 2018
3.	Rejoinder by Complainant	8th March, 2018
4.	Additional Documents filed by the Complainant	3rd July 2018
5.	Additional Documents filed by the Respondent	Dated 'NIL' (received on 8th June 2018)
6.	Prima facie Opinion by Director (Discipline)	22 <sup>nd</sup> November 2019
7.	Written Submissions by the Respondent after PFO	Not filed
8.	Rejoinder by the Complainant before the Committee	----

**5. Brief facts of the Proceedings:**

5.1 The details of the hearing(s) fixed and held/adjourned in said matter is given as under:

Particulars	Date of Meeting	Status
1 <sup>st</sup> time	22 <sup>nd</sup> May 2023	Adjourned in the absence of Complainant and Respondent.
2 <sup>nd</sup> time	11 <sup>th</sup> July 2023	Adjourned in the absence of Complainant and Respondent.
3 <sup>rd</sup> time	18 <sup>th</sup> August 2023	Adjourned in the absence of the Complainant and the Respondent.
4 <sup>th</sup> time	16 <sup>th</sup> October 2023	Adjourned in the absence of Respondent and Complainant
5 <sup>th</sup> time	28 <sup>th</sup> November 2023	Hearing concluded ex-parte and decision taken



5.2 On the day of first hearing of the case on 22<sup>nd</sup> May 2023, the Committee noted that both the parties were not present, nor any intimation was received from them. The office apprised the Committee that notice of listing of the case has been served upon both parties. Being first hearing of the case, the Committee adjourned the matter to a future date to provide one more opportunity to the Complainant and the Respondent to substantiate/defend the charges. With this, the Committee adjourned the case to a later date.

5.3 On the day of second hearing of the case on 11<sup>th</sup> July 2023, the Committee noted that both the Complainant and the Respondent were not present. The Committee noted that the notice(s) of listing of the case have been served upon them. In the absence of the parties, the Committee adjourned the case to a later date.

5.4 On the day of third and fourth hearing of the case on 18<sup>th</sup> August 2023 and 16<sup>th</sup> October, 2023 respectively, the Committee noted that the Complainant and the Respondent were not present. The Committee noted that the notice(s) of listing of the case have been served upon them. In the absence of the parties, the Committee adjourned the case to a later date and directed the office to inform the parties that in case of their failure to appear before the Committee, the case would be decided ex-parte.

5.5 On the fifth and final day of hearing of the case on 28<sup>th</sup> November 2023, the Committee noted that the Complainant and the Respondent were not present, nor any intimation was received from them. The Committee noted that notice of listing of this case was duly served upon the Complainant and the Respondent. The Committee further noted that the notices of the meeting(s) have additionally been sent through e-mail to both the parties. Further, as directed by the Committee at its last meeting, the Complainant and Respondent were informed that in case of their failure to appear before the Committee, the matter be decided ex-parte.

5.6 The Committee noted that this case is listed fifth time for hearing, however, the Complainant and as well as the Respondent did not appear single time before it, despite the fact that they were specifically informed that in case of their non-  
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appearance, the matter be decided ex-parte. In view of this, the Committee was of the view that ample opportunities were granted to the Complainant and Respondent to substantiate/defend the charges, but they failed to appear before it and, in their absence, the Committee decided to proceed ex-parte, on the basis of documents available on record.

5.7 After detailed deliberations, and on consideration of the facts of the case, various documents/material and submissions available on record before it, the Committee concluded the hearing in the instant case.

## 6. Findings of the Committee:

The Committee noted the background of the case and documents/ material on record and gave its findings as under: -

6.1 The Committee noted that the Director (Discipline) in the Prima-Facie Opinion dated 22<sup>nd</sup> November 2019 formed in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, had held the Respondent prima facie **GUILTY** of Professional and "Other Misconduct" falling within the meaning of Clauses (5), (6), (7) & (8) of Part I of the Second Schedule and Clause (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949.

6.2 Thereafter, the Prima Facie Opinion formed by Director (Discipline) was considered by the Disciplinary Committee at its meeting held in July 2020, New Delhi. The Committee on consideration of the same, concurred with the reasons given against the charges and thus, agreed with the prima facie opinion of the Director (Discipline) that the Respondent is prima facie **GUILTY** of Professional Misconduct and other misconduct falling within the meaning of Clauses (5), (6), (7) & (8) of Part I of the Second Schedule and Clause (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further

under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

6.3 The Committee also directed the Disciplinary Directorate that in terms of the provisions of sub-rule (2) of Rule 18, the prima facie opinion formed by the Director (Discipline) be sent to the Complainant and the Respondent including particulars or documents relied upon by the Director (Discipline), if any, during the course of formation of prima facie opinion and the Respondent be asked to submit his Written Statement in terms of the provisions of the aforesaid Rules, 2007.

6.4 In view of directions of the Committee and in terms of the provisions of sub-rule (2) of Rule 18, the Disciplinary Directorate vide letter(s) dated 08<sup>th</sup> October, 2020, forwarded a copy of prima facie opinion formed by the Director (Discipline) in the captioned case along with copy of documents relied upon while formulating the prima facie opinion in subject case to the Complainant and the Respondent. Further, in terms of the requirement of sub-rule (4) of Rule 18, the Respondent had been asked to submit a copy of his written statement to the Director (Discipline) and to the Complainant within 14 days of receipt of letter. The Committee noted that the Respondent has not filed his written submission on the prima facie opinion of the Director (Discipline) holding him Guilty of Professional and Other Misconduct.

6.5 Upon consideration of the above facts, the Committee observed that this case was fixed five times before it for hearing(s), however, the Complainant and as well as the Respondent did not appear single time before it, nor they filed any written submissions in captioned case despite the fact that they were specifically informed that in case of their non-appearance, the matter would be decided ex-parte. In view of this, the Committee was of the view that ample opportunities were granted to the Complainant and Respondent to substantiate/defend the charges, but they failed to appear before it and, in their absence, the Committee decided to proceed ex-parte, on the basis of documents/information/material on record.

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6.6 Thereafter, the Committee observed that there is no other document on record before it except the prima facie opinion of the Director (Discipline) dated 22<sup>nd</sup> November, 2019 including complaint in Form "I" of the Complainant dated 27<sup>th</sup> October, 2017, written statement of the Respondent dated 02<sup>nd</sup> January, 2018, rejoinder of the Complainant dated 08<sup>th</sup> March, 2018, additional documents from the Complainant and the Respondent dated 03<sup>rd</sup> July, 2018 and 08<sup>th</sup> June, 2018 respectively.

6.7 The Committee considered the above documents/material available on record (as mentioned in para 6.6 above). The Committee was of the considered view that the Respondent has not filed any further written submissions /documents after prima facie opinion and thus, non - filing of written submissions to defend the charges contained in prima facie opinion construed that the Respondent has agreed with the reasonings given in prima facie opinion of Director (Discipline) holding the Respondent **GUILTY** of Professional Misconduct and other misconduct falling within the meaning of Clauses (5), (6), (7) & (8) of Part I of the Second Schedule and Clause (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949.

6.8 In the absence of further written submissions/documents from the parties to the case, the Committee concurred with the reasoning(s) given against the Charge(s) as contained in prima facie opinion of Director (Discipline), which are reproduced herein below:-

6.8.1 *"It is observed that the Statement of Sh. Kishori Saran Goel was recorded during the course of search/ post search proceedings wherein he has admitted the fact that the firms/proprietorship concerns controlled and managed by him were mere paper entities and not doing any actual business. In fact, the searched entity, M/s Spaze Towers Pvt Ltd through its all directors accepted the fact of taking accommodation entries from the entities controlled by Sh. Kishori Saran Goel in the form of bogus purchases amounting of Rs. 52.73 Crores and paid due taxes on the same.*

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6.8.2 It is further noted that Statement of the Respondent was also recorded during the course of search/post search proceedings in which he has admitted that he had knowledge of paper entities being operated by Sh. Kishori Saran Goel in his reply to Q.No10 on page no.7 of his statement recorded on 18/02/2016. The relevant portion of the statement is reproduced as under

"Q.10 Please give the details of business activities carried out by various entities of Mr. K. S. Goel and Mr. Kapil Sharma. Please also tell whether you have ever seen the office, godown, manufacturing unit of the entities controlled and managed by Mr. K. S. Goel through Mr. Kapil Sharma and others.

Ans. The entities which are controlled and managed by Mr. K. S. Goel (as told by me in my answer to question no. 8) are not doing any business and are merely present on papers. I have never seen a godown and manufacturing unit of these entities, My employee Mr. Rahul (Mobile – 9953286592) used to visit one office in NU – 15, Pitampura, Delhi occasionally for audit purposes.

"Q. 12 Please tell where is the data related to entities controlled and managed by Mr. K. S. Goel been maintained by you.

Ans. Complete data received by me from Mr. K. S. Goel is maintained in my laptop. Some of the data and documents can be taken from our mail communication.

Q.13 Have you ever met the proprietor / partners of any of the entities mentioned in the answer to question no. 8

Ans. I have not met any of the proprietor / partners of the entities given by me in my answer to question no. 8 except one Sh. Kapil Sharma.

Q. 14 During the survey on your office premise at F-11, Ground Floor, Vishvkarma Colony, New Delhi, digital signature of Sh. Sanjay Sharma, Sh. Raj Kumar Sharma, Sh. Sharad Verma, Sh. Anit Kumar Mittal, Sh. Kulbhushan, Sh. Kapil Sharma have been found. Please tell who gave you these digital signature of the above mentioned persons.

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Ans. As already stated earlier, I have never met any above mentioned person except Sh. Kapil Shama. The digital signature of these persons mentioned in question have been provided by Sh. K. S. Goel and Sh. Kapil Sharma.”

6.8.3 The Respondent, however, in his defence in his written statement inter-alia has denied that he had any knowledge about the business entities being audited by him to be the “paper companies” and “not doing any business”. He further stated that there is no statement on record either of the Respondent himself or of Sh. Kishori Saran Goel stating that the Respondent participated /colluded in the matter of providing accommodation entries. He has submitted details in respect of following 6 companies to prove that the companies were engaged in business of trading various commodities.

- i. M/s. Amit Mittal & sons
- ii. M/s. Jai Shree Ram International
- iii. M/s. Jai Shree Laxmi
- iv. M/s. Sanjay Trading Company
- v. M/s. Shared Enterprises
- vi. M/s. Sai Kirpa Enterprises.

The Respondent in his defence has further brought on record the following documents out of which he claimed to have verified some of them while conducting the audit of the Companies in question:-

- i. Tax Auditor's Appointment letter and copy of tax audit reports.
- ii. Audited Financial Statement of Sai Kirpa Enterprises alongwith (F.Y. 2014-15) its annexures, and Copy of audit Report uploaded at Income Tax website.
- iii. Reconciliation of Sales/Purchase with copies of DVAT return produced. Summary of Sales/Services.
- iv. Copies of DVAT return for all quarters provided to us during the course of audit.

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- v. Copies of Bank statements on 31-03-2015.
- vi. Sundry Creditors Confirmation as on 31-03-2015.
- vii. Management representation letters for Financial Year 2014-2015.
- viii. Copy of ledgers of sales/purchases including ledger copy of purchase, import/purchase high sea purchases/custom duty paid with bill of entry/details of all custom duty paid, ledger of duty drawback receivable, copy of ledger against C form, and copy of ledger against Form F.

6.8.4 The Respondent also submitted that from the nature of the documents submitted above, which included proof of Import Duty against Bill of entities for import of materials, creditors' confirmation, transportation of materials, forest department attestation for Timber, payments made to clearing & forwarding agents, recording by various government authorities, payment of taxes and statutory levies etc., it is beyond doubt that the entities were carrying on trading activities and cannot in any way be termed as paper entities and not doing any business. He further submitted that his Income Tax Assessment has been completed on dated 26.12.2017 (selected for scrutiny assessment) for the Assessment Year 2016-17 under Section 143(3) of the Income Tax Act by DCIT (Central Circle 1, Gurugram. No addition in respect of any income from engagement/involvement through the said "paper entities" has been included in such assessment.

6.8.5 It is observed that although the allegation against the Respondent is that he had conducted the audit of the entities in question managed by Sh. K.S. Goel which were providing accommodation entities to M/s Spaze Group and were not conducting any genuine business, however, by referring documents such as Tax Auditor's Appointment letter, Audited Financial Statement (F.Y. 2014-15) along with annexures, Copy of audit Report uploaded at Income Tax website and reconciliation of Sales/Purchase with copies of DVAT return produced and Summary of Sales/Services etc., the Respondent has tried to substantiate/justify the

existence as well as genuineness of the transactions done by these firms and proving that the entities were not mere paper entities as being alleged. It is however felt that these documents are not much germane to the allegation against him which is primarily regarding having conducted the tax audit of the entities engaged in providing accommodation entries. It is also pertinent to mention that the relevant evidences which could have substantiated the stand of the Respondent that he had conducted the audit after examination of relevant records of the entities were his audit working papers which he had failed to submit. It would have been prudent on his part to provide his working papers prepared by him while carrying out verification procedures and retained by him as evidence/ audit documentation to substantiate the due diligence being adopted by him while carrying out the audit assignments.

6.8.6 It is further noted that Sh. Kishori Saran Goel has filed an affidavit before DCIT Central Circle-1, Gurugram wherein he has admitted that from F.Y. 2009-2010 to 2015-2016, he had carried out business of providing accommodation entries of sale and purchase on commission basis. He further admitted that business of providing accommodation entries was carried through number of proprietorship / partnership concerns owned by individuals appointed by him as proprietor/ partners on papers for salary of Rs. 6000/- pm for each firm. These proprietor / partners on papers used to sign blank cheques / papers on his instructions. All records relating to transactions of these firms were prepared & retained by him / his staff or the Respondent i.e. the auditor of these firms. No record / books of accounts / details of transactions were ever provided to these proprietors/partners on papers. All accounts/returns for these firms were compiled / audited / filed by him or at his instructions by his staff or the Respondent and for that purpose digital signatures of proprietor / partners on papers were also in his custody. He further stated that rate of commission charged by him on bogus billing varied from 0.2% to 1% and rate of commission paid by him on purchase varied between 0.5% to 1%.

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6.8.7 Thus it is noted that Shri Kishori Saran Goel clearly accepted that paper entities were being operated by him to provide accommodation entries in his statement as well as the affidavit filed which is placed on record. The Respondent contends that there is a vast difference of having knowledge about any activity and participating with such activity. However, despite such a stand being taken by the Respondent in his defence, it is clear beyond doubt that the Respondent had absolute knowledge of the act that Shri Kishori Saran Goel was operating these firms for providing accommodation entries and thus he has willfully chosen not to flag/disclose this fact in his audit reports or to any statutory authorities.

6.8.8 It is further noted on perusal of the Statement recorded on oath of Respondent that he has admitted to have audited 9 to 10 entities which were being operated at the instruction of Sh. Kishori Sharan Goel. In his reply to question no. 11 of his statement recorded on 18.02.2016, he stated that he used to communicate with Mr. K. S. Goel and his employee namely Mr. Devi Charan and Mr. Ankur for carrying out the audit work of the above mentioned firms. Even all the documentation relating to these entities were maintained in his office file under the name of "Mr. Goyal ji".

6.8.9 On perusal of the Rejoinder submitted by the Complainant on record, it is noted that various incriminating observations have been pointed out which strengthen the allegation and involvement of the Respondent in abetment and falsifying books of accounts of the paper concerns. Some of them are listed as below:

a) that in case of one entity, Sai Kripa Enterprises having current account No. 08761131004535 at Oriental Bank of Commerce, Pitampura Branch for the period December 2010 to 18.11.2015 that there were frequent cash deposits of denominations more than Rs.1,00,000/- which are immediately transferred by RTGS to the beneficiary of accommodation

entry the very next day which neither has been pointed out by the Respondent nor any explanations was given as to how this cash deposits were justified and allowed under provisions of Income Tax Act. Similar pattern can be observed in respect of most of other entities floated by Shri Kishori Saran Goel.

b) The claim of the Respondent that the audit was conducted on the basis of purchase/sale invoices and other documents is not true. He has claimed that concerns namely M/s Jai Shree Laxmi International, M/s Jai Shree Ram International & M/s Sai Kripa Enterprises have imported material like chocolate, plastic dana, toys, tiles confectionery items from other countries whereas the matter of fact is that M/s Sai Kirpa Enterprises has shown non-genuine sale of building material to M/s Spaze Towers Private Limited and raised sale invoices of the same. Thus, it is clear that the Respondent has either not checked that sale/purchase invoices or intentionally ignored the apparent discrepancy emanating out of these documents. Had the audit been conducted correctly, the discrepancy of purchasing one item and selling another one would have come to the notice of the Respondent. Furthermore, bills of the firms / proprietorship concern were generally issued by the accountant Sh. Devi Charan, associate of Sh. Kishori Sharan Goel, in his handwriting which would have been noticed by the Respondent being the auditor, had the audit been conducted in true sense.

c) In an e-mail conversation between Sh. Kishori Sharan Goel and Respondent details of entities controlled and managed by Sh. Kishori Sharan Goel i.e. their name PAN no., email-ID, proprietor's name etc. have been communicated through the email ID "bankeybihari989@gmail.com" which further establishes that all these concerns were managed and controlled by Sh. Kishori Sharan Goel and therefore, Respondent has expressed knowledge of this fact.

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d) It is also noted from copy of an e-mail conversation brought on record by the Complainant wherein the Respondent is directing Sh. Ankur to convert M/s Sharad Enterprises from loss making to being profitable one by manipulating its data.

e) The Respondent has admitted that he has not met any of the proprietors/partners of these concerns except one namely Sh. Kapil Sharma and that audit of these concerns was conducted on the directions of Sh. Kishori Sharan Goel. Thus, it is clear that Respondent knew that these concerns were controlled and managed by Sh. Kishori Sharan Goel. The digital signatures of the proprietors/partners of these concerns were found from the possession of the Respondent which further strengthens the above fact.

6.8.10 It may be stated that principle of professional behaviour given in Code of Ethics imposes an obligation on professional accountants to comply with relevant laws and regulations of the land as well as the profession and avoid any action that may bring discredit to the profession. The professional accountants should act in a manner consistent with the reputation of the profession and refrain from any conduct which might bring disrepute to the profession. It is viewed that involvement of the Professionals in such activities is likely to create a wrong impression and might tend to lower the image of the profession in the public eye. It is thus clear that the Respondent although may not have directly provided the accommodation entries to other entities but he has assisted and abetted Sh. Kishori Sharan Goel to accomplish the same and thereafter performed the tax audit for such entities despite being well aware of such a fact. Thus, it is noted that the extant complaint is not in respect of non-receipt of taxes by the Complainant department on the income earned by these entities through the alleged participation / collusion of the Respondent but it is with regard to professional misconduct on his part in not disclosing the material facts and not taking any action despite being

aware of incriminating facts and the actual circumstances prevailing in the entities. He conveniently avoided reporting the same to the authority which is highly condemnable".

6.9 After considering the above, the Committee felt that ample opportunities were granted to the Respondent to defend the charges, but he failed to appear before it nor filed any submission to defend the charges contained in prima facie opinion. Thus, the Committee was of the view that it has no option but to accept the reasonings given against the charge(s) holding the Respondent guilty of Professional and Other Misconduct in prima facie opinion of the Director (Discipline).

6.10 In view of the above, the Committee held the Respondent **GUILTY** of Professional and "Other Misconduct" falling within the meaning of Clauses (5), (6), (7) and (8) of Part I of the Second Schedule and Clause (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949.

## **7. Conclusion**

In view of the findings arrived at in the above paras, vis-à-vis material on record, the Committee gives its charge-wise findings as under:

Charge(s) (as per PFO.)	Findings	Decision of the Committee
Para 2.1 as above	Paras 6.1 to 6.8.10 as above	<b>GUILTY</b> - Clauses (5), (6), (7) and (8) of Part I of the Second Schedule and Clause (2) of Part-IV of First Schedule

8. In view of the above noted facts, the Committee held the Respondent **GUILTY** of Professional and Other Misconduct falling within the meaning of Clauses (5), (6), (7) and (8) of Part I of the Second Schedule and Clause (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949.

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Sd/-

(CA. RANJEET KUMAR AGARWAL)  
PRESIDING OFFICER

Sd/-

(SHRI JIWESH NANDAN, I.A.S {RETD.})  
GOVERNMENT NOMINEE

Sd/-

(MS. DAKSHITA DAS, I.R.A.S {RETD.})  
GOVERNMENT NOMINEE

Sd/-

(CA. MANGESH P KINARE)  
MEMBER

Sd/-

(CA. COTHA S SRINIVAS)  
MEMBER

DATE: 05.02.2024  
PLACE: NEW DELHI

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Certified to be true copy  
Nitika  
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सहायक निदेशक / Assistant Director  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
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