



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/111/2014/DD/122/2014/DC/610/2017]

In the matter of:

Joint Director (CL),

Serious Fraud Investigation Office,

Ministry of Corporate Affairs,

Govt. of India,

2nd Floor, Paryavaran Bhawan,

CGO Complex, Lodhi Road,

New Delhi-110 003

.....Complainant

Versus

CA. N Narasimhan (M. No. 081983)

M/s N Narasimhan & Co.,

Chartered Accountants,

211, Hans Bhawan,

1, Bahadushah Zafar Marg,

New Delhi-110 002


.....Respondent

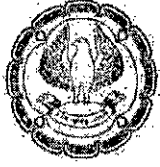
MEMBERS PRESENT:

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

DATE OF HEARING : 19th MARCH, 2024

DATE OF ORDER : 16th 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. N Narasimhan (M. No. 



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081983) (hereinafter referred to as the Respondent") is GUILTY of Professional Misconduct falling within the meaning of Clauses (5), (7) and (8) of Part – I of the 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 on 19th March 2024, the Respondent was physically present at ICAI Bhawan, New Delhi. The Respondent submitted that he has filed a Writ Petition against the Findings of the Committee before the Hon'ble High Court of Delhi. The said Petition was listed on 18th March 2024 but was not heard by the Hon'ble Court due to paucity of time and the matter was adjourned to 05th April 2024. Thereafter, the Respondent requested the Committee to defer the hearing to any day post 05th April 2024.

4. The Committee further noted that no stay has been granted by the Hon'ble Delhi High Court on the writ petition filed by the Respondent, and as such there is no bar on the Committee to consider the matter. Accordingly, the Committee decided to consider the matter.

5. The Committee noted that, apart from reiterating the written representation dated 23rd February 2024, the Respondent made verbal submissions before it, which, inter-alia, are given as under: -

(a) The Reporting under CARO related to disclosure, is based upon judgments to be exercised by the statutory auditors and it is on record that the points raised by the Respondent were satisfactorily answered by the management.

(b) In relation to point(s) raised in the Findings in para 8.3, the suggestion to have an external local auditor by the Respondent is not an issue to be reported under CARO, and the sanction from Foreign Investment Promotion Board (FIPB) was not one affecting the financial accounts.

(c) The transaction of payment comes within the purview of 'in and out' transaction pointing towards complete collusion and coordination between top management, senior executives, and the franchisees. The Respondent was given balance confirmation of many of the parties concerned, which was later found to be completely fabricated by the parties concerned. The



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audit pertains to the year ending 31.12.2010 whereas the transactions of payments that took place in January 2011 were posted in the books of accounts only in February 2011.

(d) The retrospective price rise ought to have been disclosed in the significant accounting policies of the books of accounts. The onus of disclosure in the financial statement is clearly on the part of the management of the Company. A disclosure on sales has been made by management in the accounting policy on sales and just because the term 'retrospective price' has not been used in the Financial Statements, it does not mean that the auditor must qualify it. Since, the revenue has been correctly recognised, it does not merit any specific action on the part of Respondent in the audit report.

(e) As regards the matter related to not qualifying the audit report for the year 2010 regarding the existence of FRP, there was no reference to FRP in the minutes of the meetings of the Board of Directors. The Respondent had relied on balance confirmation, which were later found to be falsified as a result of widespread collusion of top management, the franchisees and other customers.

6. The Committee also noted that the written representation of the Respondent dated 23rd February 2024 on the Findings of the Committee, which, inter-alia, are given as under:

(a) The Findings cannot be sustained because on 14-09-2023 (i.e., the last date of hearing), the Hon'ble Committee had closed the proceedings after observing that the Hon'ble Members do not want to proceed with the matter and are recusing from the case following the Representation dated 12-09-2023 of the Respondent to the President of ICAI and Chairman of the Council of ICAI against the Disciplinary Committee (Bench -IV). It is grossly wrong and incorrect (as recorded by Hon'ble Committee) that the Respondent "refused" to make submissions and withdrew from the proceedings.

(b) The Findings cannot be sustained since the same have been arrived at without following the principles of natural justice as mandated under Rule 18 of CA Rules 2007. The impugned Findings have been rendered by grossly misconducting the proceedings just within four dates (hearings) from the commencement, without hearing parties at any length as would be evident from the transcripts/minutes of the daily proceedings.

(c) It was clearly evident that the Disciplinary Committee was bent upon making short-shrift of the proceedings and concluded it on the second day itself without allowing the Respondent/member any opportunity to establish his innocence through the procedure established under Rule 18.



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(d) During the proceedings held on 10.08.2023, the learned Committee not only brushed aside the submissions of the Counsel for the Respondent, but also clearly directed/ordered that the list of witnesses is being rejected outrightly. The Counsel for the Respondent submitted that the Respondent has no confidence in the learned Committee that it would actually conduct a just and fair enquiry, and further that the Respondent would like to approach the Hon'ble Council for re-constitution of the DC-IV.

(e) In para 8.1.4 of the Findings, it is stated that there was a practice of recognizing revenue against goods billed but not dispatched and as also confirmed by the Respondent in Para 3.16 of the reply dated 05-01-2015. This is a wrong fact.

(f) The Findings of the Committee in Para 8.2 states that the Balance Confirmation has been sought in 25% of the cases in the year 2010 and that there was no reference to this issue in the Audit report of the Respondent. The Director (Discipline) as well as the Committee should have noted that confirmations to the extent of 25% were received and the Confirmations to the extent of another 25% were received by the Component auditor. Based on the aggregate confirmation received, the procedure was accepted by the Respondent.

(g) The Director (Discipline) has incorrectly held that the Respondent has simply accepted the Management explanation to complete the task by deadline and compromised his audit responsibilities. The Director (Discipline) has ignored the fact that similar exercise was carried out by 'BSR and Co' who received confirmation of 25% of the cases. His statement that detailed Account Receivables circularisation was undertaken and that there was no reference to the same in audit report is not warranted as there is no such requirement nor there is such a practice. The statement by the Director (Discipline) that it does not absolve his responsibility is totally misconceived.

(h) With reference to the observation of the Committee in Para 8.12 that the requirement of SA 706 should have been taken into account in the Audit reports. It is humbly submitted that SA 706 became effective/ applicable for audits of financial statements for the periods beginning on or after 1st April 2012 and hence, Committees observations requires to be deleted as these are not applicable for the year under consideration.

(i) The most striking omission on the part of the Disciplinary Committee, is to totally ignore the evidence submitted by the Respondent being the disclosures contained in the audited books of accounts for the year ended 31-03-2012 wherein the Management had extensively dealt with the manipulations that took place in the years preceding the year 2011. The disclosures would have raised a basic issue that how any auditor in such circumstances could have discovered the manipulations.

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7. The Committee considered the reasoning as contained in Findings holding the Respondent 'Guilty' of Professional Misconduct vis-à-vis verbal and written representation of the Respondent. The Committee noted that ample opportunities were given to the Respondent to make his submissions on merits before it at the stage of hearing under Rule 18, but the Respondent did not make any submissions/ arguments on merits of the case at the hearing stage. The Committee noted that the submission of the Respondent that the Committee had closed the proceedings on 14th September 2023 and recused from the case, are baseless and not correct. The Committee further noted that it had communicated during the hearing its intent, to consider and conclude the case on merits on 14th September 2023; however the Respondent withdrew from further proceedings and did not participate therein.

8. Thus, keeping in view the facts and circumstances of the case and material on record including verbal and written representations of the Respondent on the Findings, the Committee noted that the Respondent has submitted that the Company had a proper system of physical verification of stock. Such physical verification did not at any time reveal or include any stock termed as "billed but not dispatched" (BBND). In view of this and the fact that dispatch documents were not available with auditor to verify the process of recognizing revenue, the Committee was of the view that the Respondent has been grossly negligent while performing his professional duties. The Committee held that the Respondent failed to obtain balance confirmation from the substantial number of parties; and the Respondent has accepted the Management's explanation thereby, compromising with auditor's responsibility without resorting to indirect balance confirmation. Thus, the Respondent failed to act independently and diligently. The Committee held that the issues related to internal control were not reported by the Respondent while reporting for CARO, 2003 for the Year 2010 which ought to have been done.

9. As regards the matter related to 'in and out' transactions, the Committee noted that the Respondent had merely relied upon the bank reconciliation statements verified to ascertain that the amounts due from debtors had been realised. The Committee was of the view that the circuitous transactions can be ascertained by the examination of debtors ledger vis-à-vis bank book. The Committee held that the Respondent as auditor had not modified the audit procedures in view of the prevailing circumstances and his audit observation for the year 2010 clearly indicated that the Respondent was aware of instances when the amount was due from the franchisee but still the amount is being paid to its arm Company, although the amount due was stated in financial statements on a net basis. As regards the matter of not qualifying his report with respect to retrospective price rise, the Committee noted that it was a normal practice for the Company to carry out the retrospective price rise and the same was acceptable

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to its franchises also. The Committee was of the view that such a practice signifies that revenue was being recognized on provisional values and based on contractual arrangements between the Company and franchisees, a retrospective price increase was treated as a part of additional revenue earned. The Committee held that considering the nature of the adjustment that used to be made, it ought to have been disclosed in the significant accounting policies followed by Reebok, specially in view of the quantum of the amount involved.

10. The Committee noted that the amounts observed to be received under Franchisee Referral Program (FRP) should have also been disclosed as 'advances' received instead of showing to be completely ignorant of such agreement. The Committee held that adjustment of such receipt as collection from debtors is misrepresentation of facts which has not been reported by the Respondent as the statutory auditor of the Company. As regards the matter related to not qualifying the report for circuitous intra-group transactions, the Committee noted that the Respondent failed to report financial irregularities taking place in relation to transactions held with Shivam group of entities. Thus, the Committee held that the Respondent failed to exercise due diligence, while certifying the financial statements of the Company as a Statutory Auditor.

11. The Committee held that the Respondent had failed to act independently and diligently while conducting audit of the Reebok India Company for the years ended 2008, 2009 and 2010. He had failed to disclose material facts in the financial statements. The Committee was of the view that the Respondent had failed to bring on record the evidence to show that he had exercised due diligence, and adequate checks have been applied to uncover wrongdoings if any during the statutory audit of the said Company.

12. The Committee held that the Respondent being Statutory Auditor of the Company has omitted to report/ highlight a number of important issues, such as, Franchisee Referral Programme (FRP), In and Out transactions, Circuitous transactions with Shivam group and goods Billed but not dispatched (BBND) which should have been reported in his audit reports. The Committee was of the view that the Respondent has failed to report material falsification of financial statements, and such acts of omission in discharge of his professional duties are not expected of a statutory auditor. Hence, the Professional Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 05th February 2024, which is to be read in consonance with the instant Order being passed in the case.

13. The Committee also emphasized that reference to 'SA-706' as contained in para 8.12 of the Findings dated 05.02.2024 was a typographical error and the same should be read as 'AAS-28' in the Findings, which was applicable at the relevant time.



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14. 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 Misconduct.

15. Thus, the Committee ordered that the name of the Respondent i.e., CA. N Narasimhan (M. No. 081983) be removed from the register of members for a period of 06 (Six) months.

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. ABHAY CHHAJED)
MEMBER

प्रमाणित सत्य प्रतिलिपि / Certified True Copy

अंशु ग्रोवर / ANJU GROVER
सहायक सचिव / Assistant Secretary
अनुशासनस्य विदेशालय / Disciplinary Directorate
भारतीय सनदी लेखाकार संस्थान
The Institute of Chartered Accountants of India
आर्जेन्डीसर्वाई बिल्डिंग, विन्हावा नगर, शाहिदा, दिल्ली-110032
ICAI Bhambha, Viharas Nagar, Shahida, 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/111/2014/DD/122/2014/DC/610/2017

In the matter of:

**Joint Director (CL),
Serious Fraud Investigation Office,
Ministry of Corporate Affairs,
Govt. of India,
2nd Floor, Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi-110 003**

.....Complainant

Versus

**CA. N Narasimhan (M. No. 081983)
M/s N Narasimhan & Co.,
Chartered Accountants,
211, Hans Bhawan,
1, Bahadushah Zafar Marg,
New Delhi-110 002**

.....Respondent

MEMBERS PRESENT:

CA. Ranjeet Kumar Agarwal, Presiding Officer (In person)

Shri Jiwesh Nandan, I.A.S (Retd.), Govt. Nominee (In person)

CA. Mangesh P. Kinare, Member (In person)

DATE OF FINAL HEARING: 14.09.2023

PARTIES PRESENT:

Ms. Sumaiya Bansal: - Complainant's Representative (through VC)

CA. N. Narasimhan: - Respondent (in person)

CA. V. Ratinam:- Counsel for the Respondent (in person)

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1. **BACKGROUND OF THE CASE:**

The affairs of Reebok India Pvt. Ltd. were investigated by Serious Fraud Investigation Office (SFIO). Investigation report, recommending disciplinary proceedings against the Respondent for professional misconduct by the Institute of Chartered Accountants of India was submitted to Ministry of Corporate Affairs by SFIO. The Inspector in the investigation report has mentioned the role of the statutory auditor of Reebok India Pvt. Ltd. in falsification of financial statements and contraventions of the provisions of the Companies Act, 1956 and in finding No. 8 of the investigation report, he has clearly concluded in respect of irregularities committed by the Respondent as Statutory Auditor of the Company.

The Respondent was the statutory auditor of the Company Reebok India Pvt. Ltd. for the years 2008, 2009 and 2010. The Respondent allegedly failed to perform his duties as required u/s 227(3) of the Companies Act 1956. Absence of due diligence on the part of the Respondent while performing his assignment as statutory auditor of Reebok India Pvt. Ltd. had implication in the fraud relating to non-existent warehouse and of the fictitious transactions involving the officials of the Company. During the investigation, it was found by SFIO that books of account of Reebok were manipulated and falsified.

2. **CHARGES IN BRIEF AGAINST THE RESPONDENT ARE AS UNDER: -**

The Respondent was statutory auditor of M/s Reebok India Pvt. Ltd. (hereinafter referred to as "Reebok") for the years 2008, 2009 and 2010. The Respondent failed to perform his duties as required u/s 227(3) of the Companies Act 1956. During the investigation by Complainant Department, it was found that books of account of Reebok were manipulated and falsified on account of the following:-

- (i) Overstatement of sales on account of goods billed but not dispatched (BBND).
- (ii) Not correctly verifying the existence of debtors and sales.
- (iii) Non reporting in CARO in context of internal control.
- (iv) In-out transactions.

- (v) Not qualifying report with respect to retrospective price rise.
- (vi) Not qualifying the audit report for the year 2010 as regards existence of FRP.
- (vii) Not qualifying the report for circuitous intra-group transactions.

3. The relevant issues discussed in the prima facie opinion dated 11th May 2017 of Director (Discipline) in brief are given below:

3.1 As regards allegation that overstatement of sales on account of goods billed but not dispatched (BBND), in the break-up of goods billed but not despatched (BBND) provided in the investigation report, the same was mainly on account of dispatch in progress, dispatch schedule awaited, dispatch hold, sales reversed later, refusal to accept by customer, packing in progress, which shows that the extent of checking was not commensurate with the size of the business especially in view of the finding that the BBND was a regular sale feature in the company. The revenue was recognized on invoicing and confirmation of balance was considered as final evidence of sales held. Respondent has even submitted that out of 8 parties specified to be BBND cases by SFIO, five of them were part of balance confirmation process. The cases of balance confirmations done by the Respondent have been reported to be dispatch hold cases which indicate that dispatch documents were not available with auditors to verify the process of recognizing revenue. The Respondent was negligent in conducting verification despite the fact that warnings on internal controls by internal auditors of adidas AG in February 2010 existed. The Respondent failed to carry out additional procedures to reduce audit risk to lowest level.

3.2 Further, in respect of allegation that the Respondent has not correctly verified the existence of debtors and sales, it is noted that the balance confirmations had been sought only in 25 % of the cases in the year 2010. In the management letter for the year 2010, with respect to the confirmations, it is noted that significant number of parties did not confirm the balances which should have alarmed the Respondent especially when it is reported to be observed by auditor that there were cases wherein goods were being returned fully by the buyers and the Company had still shown such amounts as due from parties. Simply accepting the management's explanation TO COMPLETE THE TASK as PER THE DEADLINE points towards

compromising with his audit responsibilities and should have resorted to indirect confirmation of balances in accounts wherein direct confirmation has not been received. Also, reporting by the group reporting auditor does not absolve the Respondent of the reporting responsibilities and exercising the balance and checks pertinent to the audit function.

3.3 As regards the next allegation pertaining to non reporting in CARO in context of internal control, the Respondent had raised the issue that internal control procedures need to be strengthened based on its key findings that there were parties with whom the Company purchases, sells and pays commission in the warehouse, the documentation for dispatch of goods are not adequate. However, the same issues were not reported by the Respondent while reporting for CARO, 2003 for the year 2010 which ought to have been done.

3.4 In respect of next allegation i.e. in-out transactions, the SFIO in the investigation has provided as follows:

- *Top functionaries of RIC in order to reduce its Accounts Receivable (ARs) connived with some of its selected customers and shown to have collected a sum of Rs.98.40 crore on from its aging debtors in connivance with other personnel of RIC.*
- *The officials of RIC first transferred the funds to them through RTGS in January, 2011.*
- *Subsequently, these customers transferred back the money in the bank account of RIC in January, 2011 itself.*
- *Cheques were ante dated for the last week of December 2010 whereas these were issued in the month of January, 2011 only.*
- *Money received from Ashana Enterprises and Ashana overseas were intentionally credited into the accounts of other debtors.*
- *Ashana Overseas is a supplier to RIC and not its customer*

by *CAK*

- *These In-Out transactions resulted in reduction of AR balances by Rs.98.40 crore, inflated operating cash flows leading to falsification of books of account of RIC.*

The copy of audit program brought on record by the Respondent, in respect of ageing schedule for debtors, ledger scrutiny has been stated to be done in 100 % of the cases. This itself points out that the examination of the records was not complete and not diligently carried out at the end of the Respondent as had the entries in the ledger account of these Accounts Receivable parties together with the corresponding entries in the bank account as well as others been simultaneously verified, the circuitous nature of these transactions would have easily been unearthed. The defence of the Respondent that a substantial amount of in out transactions was confirmed by the parties in their balance confirmation does not absolve the Respondent from examination of the relevant records to satisfy himself about the validity, accuracy and recoverability of the debtor balances. The Respondent has also referred to KPMG India Report called 'Project Find' to argue that even that forensic report did not report any fraud. Firstly, it was an investigation on certain selected franchisees which clearly reports various instances pointing towards collusion between senior management of RIC and franchisees. The Respondent as auditor had not modified the audit procedures in view of the prevailing circumstances. Audit observation for the year 2010 clearly indicates that the Respondent was aware of instances when the amount was due from the franchisee still the amount is being paid to its arm Company, optional Industries, although the amount due were being stated in financial statements on net basis.

3.5 Allegation regarding not qualifying report with respect to retrospective price rise, the defence of the Respondent was that it was a normal practice for the Company to carry out the retrospective price rise and the same was acceptable to its franchisees also. Even if for the sake of the argument, the defence of the Respondent is accepted, such practice signifies that revenue was being recognized on provisional values and based on contractual arrangement between the Company and franchisees a retrospective price increase was treated as a part of additional revenue earned. Considering the nature of adjustment that used to be made it ought

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to have been disclosed in the significant accounting policies followed by Reebok especially in view of the quantum of amount involved.

3.6 Next allegation that the Respondent had not qualified the audit report for the year 2010 as regards existence of Franchise Referral Program (FRP), the Respondent submitted that he did come across an FRP agreement as well as money received thereon as reported in audit observation of Financial Year 2010 which is in direct contrast with the assertion that the Respondent was not aware of the fact that any money was received under FRP Programme during said financial year. Instead of seeking information about its disclosure in financial statements, auditor sought to find if any franchisee was allotted by the Company. Respondent has found the copy of the agreement and said agreement clearly states that for 'next phase of growth starting 2011', it was 'identifying such growth partners'. The assertion of the management that the FRP programme was not in existence in 2010 should have alarmed the Respondent to carry out more substantive tests to verify the veracity of the claims of the company which seems to be clearly lacking in this case. Further, the amounts observed to be received under FRP should have also been disclosed as 'advances' received instead of showing to be completely ignorant of such agreement. Moreover, adjustment of such receipt as collection from debtors is misrepresentation of facts which has not been reported by the Respondent as the statutory auditor of the Company.

3.7 Last allegation against the Respondent was that he had not qualified the report for circuitous intra-group transactions. Fictitious invoices were alleged to be raised for obtaining finances from banks through bill discounting. Respondent was aware of financial irregularities taking place in relation to transactions held with Shivam group of entities when 'Audit query on accounts subject to Account Receivable Confirmation was considered wherein the Respondent observed that after discounting the bills raised on Shivam Group entity, in next financial year, the bills were dishonoured and RIC paid to bank. The amounts due were either adjusted either as sales return or transferred to its Group entity – Om Trading Co. It is held that the auditor has to increase his level of substantive tests in case of intra-group transactions and ensure 100% verification is put in place to rule out the possibility of

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any possible collusion/falsification which in the instant case, seems to be lacking. The Respondent chose to remain silent on the matters observed instead in its statutory audit report he has drawn attention simply to the fact that earlier debtors were being reflected net of invoices discounted with bank but now debtors are reflected gross of bills discounted and liabilities towards bank. Such changes in policy showing sales return as part of dues from the parties clearly vitiate the true and fair view of the Balance Sheet.

3.8 The Committee noted that in the Prima-Facie Opinion formed by Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Respondent was held prima facie **GUILTY** of Professional Misconduct falling within the meaning of Clauses (5), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

The said Clauses to the Schedule to the Act, states as under:

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

Clause (5) Part I of Second Schedule

"(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 (7) Part I of Second Schedule

"(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties"

Clause (8) Part I of Second Schedule

"(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"

3.9 The Prima Facie Opinion formed by Director (Discipline) was considered by the Disciplinary Committee at its meeting held on 30th May 2017. The Committee on consideration of the same, concurred with the reasons given against the charge(s)

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and thus, agreed with the prima facie opinion of the Director that the Respondent is prima facie GUILTY of Professional Misconduct falling within the meaning of clauses (5), (7) & (8) of Part I of the Second 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 Respondent and the Complainant including particulars or documents relied upon by the Director, if any, during the course of formation of prima facie opinion and the Respondent be asked to submit his Written Statement in terms of Rule 18 of the aforesaid Rules.

4 **DATE(S) OF SUBMISSIONS/PLEADINGS:**

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

S.No.	Particulars	Dated
1.	Date of Complaint and/or Form 'I'	29 th April, 2014
2.	Written Statement filed by the Respondent	05 th January 2015
3.	Rejoinder filed by the Complainant	30 th November, 2016
3.	Prima facie Opinion by Director (Discipline)	11 th May 2017
4.	Further written submissions by the Respondent	Letters dated 22 nd September 2017 15 th March 2023 12 th September 2023
5.	Further rejoinder by the Complainant	29 th August 2023 12 th September 2023

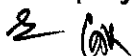
5. **Written submissions filed by the Respondent:**

The Respondent vide letter(s) dated 22nd September, 2017, 15th March, 2023 and 12th September, 2023 filed his written submissions which are summarized as under:

- 5.1 The Respondent submitted that the Company (RIC) had a system of obtaining balance confirmation from the customers.

by CA

- 5.2 The Company had always a proper system of physical verification of stock. Such physical verification did not at any time reveal or includes any stock termed as "billed but not dispatched" (BBND). The senior officers of the Company had also certified the inventories as on the date of Balance Sheet. Hence, there was no reason to believe during the audit that there could be manipulation or fraudulent practices in the accounting of inventory.
- 5.3 Every year as part of the audit process, the Respondent verified the statutory compliances. Wherever the Respondent found cases of non-compliance, the same were reported in CARO report.
- 5.4 The Respondent verified the Bank statements as part of vouching and auditing. The audit staff also on test check basis traced the bank entries to the ledger accounts of the Company. He verified the certificate of balance received from the respective banks.
- 5.5 During the audit for the year ended December 2010, the Respondent found that cost of goods sold had been credited by an amount of Rs. 38 crores, with the narration written as 'Price Rise'. It was explained to the Respondent that the Company had increased prices of some articles sold earlier in a retrospective manner. The questions were raised to the management regarding the transactions. Regarding accounting of the Price Rise of cost of goods, Mr. Vishnu Bhagat (CFO) agreed that it was a mistake and rectification entry was passed in the books of account for increase in sales and making provisions for VAT/ Sales Tax and additional royalty.
- 5.6 The Respondent submitted that Director (Discipline) had not considered the reply of the Respondent made vide letter dated 05.01.2015 and had not followed the procedure laid in the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
- 5.7 The Respondent submitted that the Complainant had relied on e-mails sent from one employee to another as part of available records to substantiate their claims that



BBND existed, and sales were inflated. Further, the Director (Disciple) while formulating prim facie opinion had totally relied upon the SFIO report.

- 5.8 Thereafter, the Respondent vide email/letter dated 23rd July 2023 made an application before the Committee for examination of; (i) Ms. Richa Kukreja, Joint Director (CL) (SFIO) (ii) Shri Saud Ahmed, Joint Director (L & P) (SFIO) (iii) Officers of SFIO and Inspector(s) of the Investigation and Signatory to the Investigation Report of M/s. Reebok India Company as witnesses.
- 5.9 After that vide letter dated 12th September 2023, addressed to the President of ICAI, the Respondent made a representation for the reconstitution of Disciplinary Committee Bench-IV, as the Committee has allegedly exhibited gross bias and prejudice against the Respondent.

6. Written submissions filed by the Complainant:

The Complainant vide letter(s) dated 29th August, 2023 and 12th September, 2023 filed written submissions which are summarized as under:

- 6.1 The Complainant submitted that the Respondent was the signing partner for N. Narsimhan & Co. who was the statutory auditor of Reebok India Company ("RIC") and had audited the financial statement of RIC since year ending 31st December 2007. The Respondent gave unqualified audit reports and failed to perform his duties under Section 227 of the Companies Act, 1956 and gave unqualified reports under the Companies (Auditor's Report) Order 2003.
- 6.2 The Respondent was aware of the wrong doings taking place in the affairs of RIC as was evident from the Respondent's own admittance regarding the communications between the Respondent and the management of RIC. The Respondent being a Statutory Auditor must express his opinion on financial statements audited by him.
- 6.3 The objective of having a statutory audit is that the auditor should function as an independent person uninfluenced by any of activities outside the scope of audit services. The Respondent as Statutory Auditor of the Company for the period 2007-

2010 did not exercise due diligence and failed to obtain sufficient information for the expression of an opinion on the financial statement of the Company.

- 6.4 The Complainant further submitted that the Disciplinary Committee, in past also, did not accede to the request of the Respondent for examination of witnesses requested by the Respondent. The Respondent had earlier submitted a list of witnesses along with the written statement dated 22.09.2017 and had requested for examination of witnesses at a hearing held on 11.04.2023 before the Disciplinary Committee. The Respondent had again submitted another list of witnesses for cross-examination. The Respondent is making desperate and vexatious attempt to cause an unwarranted delay in the proceedings of the Committee.
- 6.5 A detailed investigation report had already been submitted on account of irregularities noticed in the affairs of RIC, including the failure of the Respondent (Statutory Auditor) to qualify the Audit Reports even after having knowledge of the irregularities in the affairs of RIC.

7. BRIEF FACTS OF THE PROCEEDINGS:

The details of the hearing fixed and held/adjourned in said mater is given as under:

Particulars	Date of Meeting	Status
1 st time	27 th May 2019	Respondent requested that proceedings be kept in abeyance till further order of Hon'ble Delhi High Court.
2 nd time	15 th October 2019	Fixed and adjourned at the request of the Respondent.
3 rd time	22 nd March 2023	Part heard and adjourned.
4 th time	11 th April 2023	Part heard and adjourned.
5 th time	26 th July 2023	Fixed and adjourned at the request of the Respondent.
6 th time	10 th August 2023	Part heard and adjourned.
7 th time	14 th September 2023	Hearing concluded and decision taken.

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7.1 On the day of hearing on 22nd March 2023, the Committee noted that Ms. Swasti Agarwal, AD (Law) SFIO, Mr. Lalit Mohan Rana, Sr. Assistant Director, SFIO, CA. N Narasimhan along-with Adv. R.K. Singh and CA. V Ratinam were present. The Committee enquired from the parties to the case that since the composition of the Committee had changed subsequent to the hearing held on 15th October, 2019 in this case, whether they wished to have a de-novo hearing or would continue from the stage it was last heard. The Respondent opted for de-novo hearing and accordingly both parties i.e. Complainant and the Respondent were administered on Oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges; and the same as contained in para 2 above were also read out. The Respondent replied that he is aware about the charges but pleaded 'Not Guilty' on the charges levelled against the Respondent. The case was part heard and adjourned to the next day.

7.2 On the next date of hearing on 11th April 2023, Ms. Saumaiya Bansal, Senior prosecutor SFIO along-with Counsel, Mr. Manoj Kumar and the Respondent, CA. N Narasimhan along-with Adv. R.K. Singh and CA. V Ratinam were present. The Counsel for the Respondent made initial submissions. He further submitted that the list of witness(es) as given along with his submissions dated 22.09.2017 be considered and accepted by the Committee. The Committee noted that the Respondent has not given valid reasons for examination of these witness(es) and did not corroborate the relevance of these witness(es). The Committee further noted that out of the list of witness(es), three persons are from Respondent firm and others are officials of the Company. The Committee noted that no valid reason has been given whatsoever for compelling the attendance of these persons for examination and cross examination. The Committee was of the view that the said request was clearly made for the purpose of vexation and delay and therefore, be refused in view the provisions of Rule 18(14) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The Counsel for Respondent relied upon documents submitted by him, a copy of which was not sent by him to the Complainant as was required, and therefore the Committee directed the Respondent to provide the said documents/written

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submissions to the Complainant, and to make his submissions on merits at the next date of hearing. The case was part heard and adjourned to the next day.

7.3 On the next date of hearing on 26th July 2023, the Committee noted that the Respondent vide email dated 25th July 2023 has sought adjournment for two weeks on medical grounds. The Committee acceded to the request of the Respondent and adjourned the case to a future date with a view to extend one more opportunity to the Respondent to defend the charges. The case was adjourned to a future date.


7.4 On the next date of hearing on 10th August 2023, the Committee noted that Ms. Saumaiya Bansal, Senior prosecutor SFIO along-with Counsel, Ms. Ratna Agarwal, and CA. N Narasimhan along-with Adv. R.K. Singh and CA. V Ratinam were present. The Counsel of the Respondent cited judgments in his favour which were noted and taken on record by the Committee. Further, the Respondent submitted another list of witnesses dated 23rd July, 2023 of the officers belonging to SFIO and requested that these officers be summoned before the Committee for the purpose of cross-examination by stating that the same is essential to disprove the allegations. The Committee directed that the list of witnesses submitted by the Respondent for cross-examination be supplied to the Complainant and the Complainant was directed to file a Reply before the next date of hearing with a copy to the Respondent. The Complainant acknowledged the receipt of written submissions filed by the Respondent dated 22/09/2017 and sought time to file their rejoinder thereto. The Committee acceded to the request of the Complainant and directed them to file their reply within 10 days with copy to the Respondent. The case was part heard and adjourned to next date.

7.5 On the day of final hearing on 14th September 2023, Ms. Saumaiya Bansal, Senior prosecutor SFIO, CA. N Narasimhan along-with CA. V Ratinam were present. The Committee noted that a letter has been received from the Respondent dated 12th September, 2023 addressed to the Hon'ble President of the ICAI for reconstitution of the Disciplinary Committee (Bench – IV) and for passing appropriate directions in this case, as the present Committee has allegedly exhibited gross bias and prejudice against the Respondent. The Committee asked the Complainant's

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representative as to whether he has received copy of said letter. The Counsel for Respondent informed that he had made this communication to the Council of the ICAI through the President of ICAI and Chairman of the Council and has nothing to share with Complainant at this stage. Further, the Counsel for Respondent submitted that their legal Counsel could not be present due to pre-occupation. The Committee further noted that pursuant to directions given by it in the meeting held on 10/08/2023 directing the Complainant to file a reply on the list of witness(es) of the Respondent, SFIO vide its response dated 12/09/2023 has submitted that : despite declining the initial list of witness(es), the Respondent yet again submitted another list of witness(es) for cross-examination; which makes it evident that it is a desperate and vexatious attempt to cause unwanted delay in the proceedings. Thus, calling for examination of witness(es) was not warranted as the findings against the Respondent and the evidences placed on record are ample for the purpose of proving the failure in performing his duties as statutory auditor. In the interest of justice, no further delay in the present proceedings be made.

7.6 The Committee informed the Counsel for the Respondent that list of witness(es) of Respondent was supplied to SFIO vide email dated 23rd of August 2023 and vide letter dated 12/09/2023 SFIO have stated that "in the light of the protracted proceeding, it would not be in the interest of justice to act on the whims of the Respondent and permit such examination of witness when the submission placed on record lucidly portray his misconduct as a Chartered Accountant working in the capacity of a statutory auditor of Reebok India. Thus, such examination should be denied". The Committee considered the letter dated 23/07/2023 of the Respondent requesting for summoning of witness(es) and the response thereon of SFIO submitted vide letter dated 12/09/2023. On an overall consideration of the same, the Committee was of the view that the request for cross examination of officers of SFIO was not warranted and accordingly decided to refuse the said request of the Respondent on the ground that the detailed Report of SFIO after investigation into the matter is available on record and that the said request for cross-examination is made for the purpose of vexation and delay as discussed in detail above, in view of Rule 18(14) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

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7.7 Further, the Committee was of the view that Respondent has sent a letter dated 12th September 2023 to the President of the ICAI for reconstitution of this Bench. The Committee asked the Respondent as to whether, he wished to participate in the proceedings of the case and that the Committee desired to consider the matter and conclude the case on merits. The Respondent at this stage withdrew from further proceedings of the Committee and did not participate therein.

7.8 The Committee observed that the submissions of the Respondent in the recent hearings before it remained more or less the same, and it mainly revolved around raising issues on the Rules and process followed in the hearing, and at any point of time the Respondent neither submitted nor desired to submit his arguments on merits of the case. The Committee further observed that the technical issues raised by the Respondent have been responded by it appropriately keeping in view the relevant provisions of the Rules. The Committee was of the view that ample opportunities were given to the Respondent to make his submissions on merits before it, but the Respondent did not make any submissions on merits of the case in hearings so far held. The Committee felt that the role and responsibility of the Respondent in a particular assignment in the context of professional misconduct has to be considered and decided by it, as per the provisions of the Chartered Accountants Act, 1949 and Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The Committee further felt that sufficient time and opportunity have already been given to the Respondent, however, he is not forthcoming to argue the matter on the merits of the case. The Committee observed that all written submissions of the parties, documents / materials, evidence and Prima Facie Opinion of the Director (Discipline), were available on record, and since the Respondent withdrew from further proceedings of the Committee, it was decided to conclude the hearing.

7.9 Accordingly, the Committee considered the matter based on the Prima Facie Opinion, various documents/submissions made by parties including evidences which were on record, and concluded the hearing in the matter.

S. G. M.

8. FINDINGS OF THE COMMITTEE

The Committee noted the background of the case and gave its findings as under: -

8.1 On the basis of submissions of the parties, the Committee noted that as regards the allegation of overstatement of sales on account of goods billed but not dispatched (BBND), on perusal of the Investigation Report, the paras which merit consideration are as under:

“NN & Co. failed to do basic auditing steps to establish that RIC has falsified sales by pre-maturely recognizing revenues by not dispatching the goods and transferring the title to the buyer, and the financial statements as at 31st December were mis-stated by recording fictitious sales by RIC, without any intention to transfer risks and rewards within the year end. Such fictitious sales were represented as BBND of Rs 147.26 crore for the year ended 31st December, 2011 and overstated the Sales account by the same amount. Similar overstatements of sales were made for the years ending 2010, 2009 and 2008 for Rs 109.11 crore, Rs 87.40 crore and Rs 25.72 crore, respectively”.

“In 2010, N N & Co. raised some concerns on circularization, etc. but failed to detect the gross falsification, which is apparent from the financial disclosures of debtors and sales for this years (and previous year). In fact, despite the internal auditors lowering the internal controls level to unsatisfactory for Reebok, the Respondent in their report on the financial statements of 31st December, 2010 and 2009 in Section (iv) of Annexure to report state “...there are adequate internal control system commensurate with the nature and size of its business for purchase of inventory, fixed assets and for sale of goods and service. During the course of audit, the Respondent has not observed

By [Signature]

any continuing failure to correct major weaknesses in the internal control system of the Company”.

8.1.1 “It was further noted that report states that as on 31st December, 2011, goods worth Rs.147.26 Crore were billed but not dispatched to customers. The status of the goods billed till 31st December, 2011 but still pending delivery on subsequent cut-off dates is as under:-

BBND as on 31 st January, 2012	Rs.72.50 Crore
BBND as on 29 th February, 2012	Rs.37.11 Crore
BBND as on 4 th April, 2012	Rs.32.67 Crore

At RIC there is no ‘normal’ or standard time for clearing BBND goods as evident from the month wise BBND ageing report as on 31st December, 2011 that was obtained from RIC and reproduced below:-

Billing/Invoicing Month	BBND Pending (Rs. In Crore)
March, 2011	2.14
April, 2011	0.30
May, 2011	0.62
June, 2011	0.64
July, 2011	1.10
August, 2011	3.96
September, 2011	3.57
October, 2011	8.93
November, 2011	10.80
December, 2011	115.20
Total BBND (as on 31.12.2011)	147.26

From the ageing analysis of BBND pending dispatch on 31st December, 2011, it is seen that goods invoiced as old as nine months were still pending dispatch from the Company”.

S. G. K.

8.1.2 The Respondent has submitted that the aforesaid SFIO contentions relates to Financial Year 2011 whereas the charges against him has been lodged for Financial Year 2008 to Financial Year 2010. Hence, the Respondent does not offer any comments on the same. On perusal of investigation report, it was noted by the Committee that similar allegations have also been made for Financial Year 2008 to Financial Year 2010 wherein it has been stated as follows:-

Breakup of BBND as on 31 st December of the Year (in Rs. Crore)					
		2008	2009	2010	2011
1	Dispatch in progress	5.26	0	3.34	109.18
2	Dispatch Schedule awaited	2.92	27.13	64.42	3.76
3	Dispatch Hold	5.91	1.87	27.88	0
4	Sales reversed later (Credit Notes issued)	0	0	0	0
	Sub-Total	14.09	29	95.64	132.31
5	Refused to accept by customer	0.03	3.07	0.56	0
6	Required purchase order	2.15	1.84	2.48	2.18
7	Required road permit	9.28	2.38	8.67	4.72
8	Packing in progress	0	24.94	0	0
9	Misc	0.17	26.17	1.76	8.03
	Total	25.72	87.4	109.11	147.26

A perusal of the table reveals the following:

- A substantial part of the goods not dispatched by RIC in 2011 was shown to the "Dispatch in progress"
- A major chunk of BBND in 2009 & 2010 is for 'dispatch schedule awaited'
- Another major chunk of BBND in 2010 is on account of 'Dispatch Hold'
- In 2009, a major chunk of BBND is on account of 'packing in progress'.
- A substantial chunk of BBND for the years 2009 is on account of 'Misc'.


8.1.3 The Committee noted that similar practice was also adopted for financial year ending on December 2009 and December 2010 as been discussed in detail in the SFIO report as stated hereunder-

"4. During investigation further evidences collected threw light on some of the entries reported in the table above. The entry of Rs.24.94 crore shown as BBND as on December 31, 2009 under 'packing in progress' relates to sale to Shivam Enterprise/Oriya Sales & Distributors, to whom goods had already been sent. Thus, there could be no justification for BBND against this item. Out of the Rs. 27.13 crore shown under 'Dispatch schedule awaited' as on December 31, 2009, Rs.9.30 Crore pertained to sale to Singh Olympics Private Limited (SOPL). However, subsequent discussions would reveal that sale of goods worth Rs.15.76 crore were reversed by RIC in 2010 including most of the invoices included in Rs.9.30 crore".

"5. The following observations can be made from the break-up of BBND as on December 31, 2010:

Out of the Rs.64.42 crore shown under 'Dispatch schedule awaited' as on December 31, 2010, Rs.14.83 Crore pertained to M/s Pragati Enterprises. However, it could be seen from later part of this report that the Proprietor of Pragati Enterprises denied having any business transactions with RIC. Stickers in progress for sale of goods to Crazy Riders for Rs.4.71 crore which implied that the goods were not ready for sale".

8.1.4 In view of above, the Committee observed that there was a practice of recognizing revenue against goods billed but not dispatched. The quantum of such revenue being recognized was material in financial year 2009 as well as 2010. It was viewed that instances wherein revenue was recognized against goods billed but not dispatched were due to want of dispatch schedule or whose packing was in progress. It clearly indicates that revenue was recognized when dispatch had not taken place. Hence, RIC had recognized revenue on invoicing and not on dispatch of goods as also confirmed by the Respondent in para 3.16 above. However, the fact that such invoicing was not always coinciding with dispatch of goods thus



signifying that revenue was recognized before transfer of significant risk and rewards of ownership to the buyer which is against the principles enunciated in AS 9.

The MS Excel sheets relating to BBND details for the years 2008 to 2010 revealed that the executives of Sales/ Finance Departments of RIC had issued instructions to hold the dispatch ("Dispatch Hold") of goods already invoiced. Details of such prematurely recognized revenue is tabulated below:-

Year	Name of the officials of RIC	Name of the Distributor/Franchisee	Amount (Rs. In crore)
2008	Saurabh Malik	Fabtex	5.90
2009	Mrs. Pooja	Ankush Commercial Pvt. Ltd.	0.94
2009	Rishab	Future Value Retails Pvt. Ltd	0.93
2010	Altaf Khan	Sistema Shyam Teleservices Ltd.	0.25
2010	Ravish Singh	Business Associates	0.29
2010	Sorav Arora	Trends Trade Mart Pvt. Ltd.	4.92
2010	Sumeet Vaidya	Devey Brothers	0.42
2010	Vinay Karmcheti	Sports Apparel Company	0.67
2010	Ms. Sumedha Satija	Abhilasha Retails Dashiana Sales SFA International	20.88

8.1.5 The practice of BBND was prevalent in RIC since 2007 onwards as is evident from the following Emails:-

Annexure	From	To	Subject	Date	Contents
Annexure D-35	Parshant Bhatnagar	Preetpal Singh CC:	BBND till December, 2007	05 th Feb, 2008	I am giving below customer wise details of shipments lying at

		Anant Daga, Vishnu Bhagat			our warehouse after billing. Please arrange the dispatch schedule or sales return approval against these immediately
Annexure D-36	Parshant Bhatnagar	Vishnu Bhagat	BBND list up to 31 Dec, 2008	14 th Jan, 2009	Below mail is having latest update on BBND
Annexure D-37	Parshant Bhatnagar	Tarun Puri CC: Anant Daga, Vishnu Bhagat	BBND list up to 31 Dec, 2009	6 th Jan, 2010	Below mail of Shekhar is having BBND till Dec 31, 2009. This does not include the cartoons and value of direct delivery cases. There are 59,866 cartons having value of Rs.87.40 crore are pending for dispatch due to reason mentioned against each. Please arrange the dispatch plan and road permits for doing the needful.

8.1.6 On perusal of the break up of BBND provided in the investigation report, it is noted by the Committee that the same was mainly on account of dispatch in progress, dispatch schedule awaited, dispatch hold, sales reversed later, refusal to accept by customer, required PO, packing in progress which shows that that the extent of checking was not commensurate with the size of the business especially in view of the finding that the BBND was a regular sale feature in the Company.

S. G.

8.1.7 Further it was noted that revenue was recognized on invoicing and confirmation of balance was considered as final evidence of sales held. The Respondent has even submitted that out of 8 parties specified to be BBND cases by SFIO, five of them were a part of balance confirmation process. When details given was compared with details given in SFIO report, it was noted that all cases of balance confirmations done by the Respondent have been reported to be dispatch hold cases which indicate that dispatch documents were not available with auditors to verify the process of recognizing revenue.

8.1.8 The Committee noted that the Respondent has submitted that the Company had a proper system of physical verification of stock. Such physical verification did not at any time reveal or include any stock termed as "billed but not dispatched" (BBND). In view of this and the fact that dispatch documents were not available with auditor to verify the process of recognizing revenue, the Committee was of the view that the Respondent has been grossly negligent while performing his professional duties.

8.1.9 On the basis of above noted facts, the Committee was of considered view that the Respondent is guilty of professional misconduct falling within the meaning of Clauses (5), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

8.2 As regards the allegation of not correctly verifying the existence of debtors and sales, the Committee noted that the Respondent in his written statement stated that he was the one who brought to the notice of the ultimate owner Adidas AG, regarding concerns on the debtors and on Respondent firm's insistence only a detailed AR circularization process was undertaken in close coordination with officers of Adidas AG. The Committee observed there was no reference to the same in audit report of the Respondent. It is also observed that balance confirmation had been sought only in 25 % of the cases in the year 2010. In management letter for the year 2010, with respect to the AR confirmations, it is noted that significant number of parties did not confirm the balances which should have alarmed the Respondent especially when it is reported to be observed by auditor that there were cases

wherein goods were being returned fully by the buyers and the Company had still shown such amounts as due from parties. Simply accepting the management's explanation TO COMPLETE THE TASK as PER THE DEADLINE points towards compromising with his audit responsibilities and should have resorted to indirect confirmation of balances in accounts wherein direct confirmation has not been received.

8.2.1 The Committee observed that the Respondent failed to obtain balance confirmation from the substantial number of parties. The Committee further observed that the Respondent has accepted the Management's explanation thereby, compromising with auditors responsibility without resorting to indirect balance confirmation. Thus, the Respondent failed to act independently and diligently.

8.2.2 In view of above reasoning(s), the Committee was of considered view that the Respondent is guilty of professional misconduct falling within the meaning of Clauses (5), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge also.

8.3 Next allegation of non-reporting in CARO in context of internal control, on perusal of the Investigation Report, the Committee noted the paras, which merit consideration are as under :

"In 2010, N N & Co. raised some concerns on circularization, etc. but failed to detect the gross falsification, which is apparent from the financial disclosures of debtors and sales for this years (and previous year). In fact, despite the internal auditors lowering the internal controls level to unsatisfactory for RIC, N N & Co. in their report on the financial statements of 31st December, 2010 and 2009 in Section (iv) of Annexure to the report state *"...there are adequate internal control system commensurate with the nature and size of its business for purchase of inventory, fixed assets and for sale of goods and service. During the course of audit, the Complainant has not observed any continuing failure to correct major weaknesses in the internal control system of the Company"*.

"Regarding the internal audit system, it was stated that "we feel the Company should have external local internal auditor to cover various functions on a quarterly basis, to

achieve better control of risks." The Company's turnover is increasing and requires a greater control. Relating to trading in new products like watches, sunglasses and luggage, it was observed by the auditors that "sanction from FIPB must be taken for carrying on the new activity, as the earlier approval sought was for sports equipment only. These items may not be covered under sports equipment." The auditor's report for the year 2009 neither mentions anything about these observations of the auditors nor did the auditors qualify their audit report for these observations."

8.3.1 The Committee was of the view that as per the Statement on the Companies (Auditor's Report) Order 2003, issued by the Institute, the auditor's responsibility have been defined, it specified as under:

General Provisions Regarding Auditor's Report

"6. The Order is not intended to limit the duties and responsibilities of auditors but only requires a statement to be included in the audit report in respect of the matters specified therein. For example, examination of the system of internal control is one of the basic audit procedures employed by the auditor. The fact that the Order requires a statement regarding the internal control applicable to purchases of inventories, fixed assets and sale of goods only is no justification for the auditor to conclude that an examination of internal control regarding the other areas of a company's business is not important or not required."

"(b) Obtaining an understanding of internal control systems is a normal audit procedure. While the requirement of the Order is confined only to internal control procedures regarding purchase of inventory, fixed assets and sale of goods and services, it does not mean that the duty of the auditor to examine internal control with regard to other areas is in any way diminished. It is only means that special emphasis has to be given by the auditor on internal control system with regard to the items specified in the clause as aforesaid.

(c) "Internal Control System" means all the policies and procedures (internal controls) adopted by the management of an entity to assist in achieving management's objective of ensuring, as far as practicable, the orderly and efficient conduct of its business, including adherence to management policies, the

safeguarding of assets, prevention and detection of frauds and errors, the accuracy and completeness of the accounting records, and the timely preparation of reliable financial information.

(e) In making the evaluation, the auditor has to give due regard not merely to the size of the company and the nature of its business but also to the organizational structure. This suggests that whereas detailed internal control procedures may be absolutely essential for a large company with a diversified business operating at several locations, internal control may be less formal in an "owner-managed" or a small company where there is a greater degree of personal supervision. Reference in this regard may also be made to paragraph 49 of the Auditing and Assurance Standard (AAS) 6, "Risk Assessments and Internal Control".

(g) The clause also requires the auditor to comment whether there is a continuing failure to correct major weaknesses in internal control system. The auditor, for reporting on this clause, would have to ascertain the weaknesses in the internal controls in regard to purchase of inventory, fixed assets and sale of goods and services and then examine whether there is a continuing failure to correct major weaknesses in internal controls."

"(i) The auditor should review the reports of internal auditor, if any. The reports of internal auditors may point out cases of weaknesses in the design of internal controls and non-observance of the laid down controls. The auditor should also review the minutes of the meetings of the board of directors and audit committee, if any, with a view to determine the cases of weaknesses in internal controls. The auditor may come across situations where a weakness in internal control system has been placed before the board of directors or the audit committee but the same has not been considered. Such cases may point out the instances where there is a continuing failure to correct a major weakness in internal control system. The auditor should also review his previous years' working papers to determine the weaknesses in the internal control system, if any, already communicated to the management."

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“(k) The auditor while making an evaluation of the internal controls in regard to purchase of inventory, fixed assets and sale of goods and services while carrying out the procedures mentioned at (i) above might come across a weakness in those internal controls. The auditor should, in such circumstances, exercise his professional judgement to determine whether the weakness noted by him is a major weakness in the internal control. The auditor while commenting on the clause, makes an assessment whether the major weakness noted by him has been corrected by the management as at the balance sheet date. If the auditor is of the opinion that the weakness has not been corrected, then the auditor should report the fact while commenting upon the clause. Apart from stating that there has been a continuing failure to correct major weakness, the auditor should report the weakness and the steps taken by the management to correct the weakness, if any. Where the management has not taken any steps for correcting the weakness, the auditor’s report should also state this fact. It may also happen that the weakness is corrected by the date on which the auditor issues the audit report. In such a case, the auditor’s report should state the fact that although as at the balance sheet date, there was a continuing failure to correct a major weakness on the date of the financial statements, the weakness has been corrected by the date the auditor issued his report. It may, however, be noted that the existence of continuing failure is important for reporting on this clause. Even if the management has taken reasonable steps to correct the weakness but the weakness continues, the auditor is required to report the same under this clause. (emphasis supplied)”

8.3.2 The Committee perused the submissions of the Respondent wherein he has stated that every year as part of the audit process, he verified the statutory compliances and wherever he found cases of non-compliance, the same were reported in CARO report. On perusal of the ‘Management Letter on Audit for Financial Year 2010, with respect to the internal control, the Respondent had raised the issue that internal control procedures need to be strengthened based on its key findings that there were parties with whom the Company purchases, sells and also pays commission in the warehouse, the documentation for dispatch of goods is not adequate. The Committee opined that the said issues were not reported by the

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Respondent while reporting for CARO, 2003 for the Year 2010 which ought to be have been done.

8.3.3 In view of these observations, the Committee was of view that the Respondent is guilty of professional misconduct falling within the meaning of Clauses (5), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

8.4 As regards the allegation of in-out transactions, the Committee observed that SFIO in respect of In and Out Transactions, provided in the Investigation Report, as follows:

- *Top functionaries of RIC in order to reduce its ARs connived with some of its selected customers and shown to have collected a sum of Rs.98.40 crore on from its aging debtors in connivance with other personnel of RIC.*
- *The officials of RIC first transferred the funds to them through RTGS in January, 2011.*
- *RTGS authorization letters were signed by Shubinder Singh Prem and Vishnu Bhagat.*
- *Subsequently, these customers transferred back the money in the bank account of RIC in January, 2011 itself.*
- *Cheques were ante dated for the last week of December 2010 whereas these were issued in the month of January, 2011 only.*
- *Money received from Ashana Enterprises and Ashana overseas were intentionally credited into the accounts of other debtors.*
- *Ashana Overseas is a supplier to RIC and not its customer*
- *These In-Out transactions resulted in reduction of AR balances by Rs.98.40 crore, inflated operating cash flows leading to falsification of books of account of RIC.*

A Reference was also invited to the para 8 and 10 of the 'Guidance Note on Audit of Debtors, Loan and Advances' which provides as under:

"8. The auditor should check the agreement of balances as shown in the schedules of debtors with those in the ledger accounts. He should also check

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the agreement of the total of debtor balances with the related control accounts. Any differences in this regard should be examined.

10. *"While examining the schedules of debtors with reference to the debtors' ledger accounts, the auditor should pay special attention to the following aspects:-*
- a) *Where the schedules show the age of the debts, the auditor should examine whether the age of the debts has been properly determined.*
 - b) *Whether the amounts outstanding are made up of items which are not overdue, having regard to the credit terms of the entity.*
 - c) *Whether transfers from one account to another are properly evidenced.*
 - d) *Whether provisions for allowances, discounts and doubtful debts are required. In this regard, the auditor should recognize that **even though a debtor may have confirmed the balance due by him, he may still not pay the same.**"*
(emphasis supplied)

8.4.1 On perusal of the written statement of the Respondent, the Committee noted that the Respondent is silent about the aspect of verification of the ledger accounts of the debtors in whose accounts in out transactions had been allegedly reported. The Committee observed that the Respondent had merely relied upon the bank reconciliation statements verified to ascertain that the amounts due from debtors had been realised. The circuitous transactions can be ascertained by the examination of debtors ledger vis-à-vis bank book.

8.4.2 On perusal of the copy of the audit program brought on record by the Respondent, it is noted that in respect of ageing schedule for debtors, ledger scrutiny has been stated to be done in 100 % of the cases. The Committee was of the view that this itself points out that the examination of the records was not complete and diligently carried out at the end of the Respondent, as had the entries in the ledger account of these AR parties together with the corresponding entries in the bank account as well as others were simultaneously verified, the circuitous nature of these transactions would have easily been unearthed. The defence of the Respondent that a substantial amount of in out transactions was confirmed by the parties in their

balance confirmation does not absolve the Respondent from examination of the relevant records to satisfy himself about the validity, accuracy and recoverability of the debtor balances. The Respondent has also referred to KPMG India Report called 'Project Find' to argue that even that forensic report did not report any fraud. On perusal of the same, it was noted that firstly it was an investigation on certain selected franchisees which clearly reports various instances pointing towards collusion between senior management of RIC and franchisees. In view of these findings and facts, it is held by the Committee that the Respondent as auditor had not modified the audit procedures in view of then prevailing circumstances. Further his audit observation for the year 2010 clearly indicates that the Respondent was aware of instances when the amount was due from the franchisee still the amount is being paid to its arm Company, although the amount due were being stated in financial statements on net basis.

8.4.3 In view of above, the Committee was of view that the Respondent is guilty of professional misconduct falling within the meaning of Clauses (5), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on this charge also.

8.5 As regards the allegation of not qualifying his report with respect to retrospective price rise, the Committee noted that the Respondent in his defence submitted, there was no requirement for any qualification due to following factors:

- In view of the relationship of RIC and Franchisee, regular debit and credit notes were being issued by RIC and franchisees accepted the same.
- The mistake in the entry was found and rectified.
- Dues to Government in the form of Sales tax which was not entered, was subsequently provided and paid.
- BSR and Co had issued Group reporting certificate for 2010 by including the same erroneously as part of purchases.
- Adidas AG had consolidated the financials for 2010 on the basis of report of BSR and Co. The special representative of adidas AG Mr Chris Swann did not raise any issue about the -legitimacy of the claim.

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- In fact in his subsequent report he has confirmed receipt of money from franchisees. Many of the parties had confirmed the price rise in their balance confirmation process.

8.5.1 The Committee observed that in its investigation report of SFIO, it had been pointed out as under:

"4. As per the working papers of statutory auditor for 2010, the auditor observed that RIC had increased prices of products sold to customers in June /November 2010 by Rs.38 crore and instead of crediting sale. RIC had reduced the cost. The matter was discussed by the auditor with Shri Anand Agarwal, Shri Manish Marwah and VB. As per the management letter on the audit for the year 2010, RIC had rectified the mistake and credited the sales on account of retrospective price escalation and made provision for VAT short payment on account of the same. This price increase also resulted in accrual of royalty to the tune of Rs.1.80 crore. As per the audit working papers, the issue of retrospective price increase was discussed with Shri Shahin Padath (director, RIC). It may be mentioned that subsequently in February, 2012, this retrospective increase in prices was reversed by RIC.

5. Therefore, in view of the above, it is crystal clear that the sales were inflated to the extent of Rs.31.83 and Rs.53.78 for the year 2010 and 2011, respectively, by the local management of RIC. Consequently, the accounts receivable were also inflated by the local management knowing fully well that it would be extremely difficult to collect this money from the franchisees for increasing the price of products already sold. The attempt to hide the price rise by making adjustment to the cost rather than crediting these amounts to the sales made to respective parties amply demonstrate the intention to falsify the accounts.

Emphasis supplied

Further, it is noted that paragraphs 5,6 and 8 of Guidance Note on Audit of Revenue States as follows:-

"5. In carrying out an audit of revenue, the auditor is particularly concerned with obtaining sufficient appropriate audit evidence to corroborate the management's assertions regarding the following:-

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Occurrence - that recorded revenue arose from transactions which took place during the relevant period and pertain to the entity.

Completeness - that there is no unrecorded revenue.

Measurement - that revenue is recorded in the proper amounts and is allocated to the proper period.

Presentation And Disclosure - that revenue is disclosed, classified, and described in accordance with recognized accounting policies and practices and relevant statutory requirements, if any.

6. *The auditor should study and evaluate the system of internal control relating to revenue, to determine the nature, timing and extent of his other audit procedures. He should particularly review the following aspects of internal control relating to revenue.*

- a) *The systems and procedures relating to generation of revenue including authority to fix prices, offer discounts and other terms of sale.*
- b) *Accounting procedures relating to recognition of revenue.*
- c) *Existence of periodic reports on actual performance vis-à-vis budgets.*

8. *The auditor should examine whether the basis of recognition of revenue by the entity is in accordance with the recognized accounting principles as laid down in Accounting Standard (AS) 9, Revenue Recognition, issued by the Institute of Chartered Accountants of India."*

Further, the following is also required to be taken into view:

"9.2 Where the ability to assess the ultimate collection with reasonable certainty is lacking at the time of raising any claim, e.g., for escalation of price, export incentives, interest etc., revenue recognition is postponed to the extent of uncertainty involved. In such cases, it may be appropriate to recognize revenue only when it is reasonably certain that the ultimate collection will be made. Where there is no uncertainty as to ultimate collection, revenue is recognized at the time of sale or rendering of service even though payments are made by instalments.

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Disclosure

14. *In addition to the disclosures required by Accounting Standard 1 on 'Disclosure of Accounting Policies' (AS1), an enterprise should also disclose the circumstances in which revenue recognition has been postponed pending the resolution of significant uncertainties." (Para 9.2 and 14 of AS-9)*

8.5.2 On a combined reading of the defence of the Respondent vis-à-vis the technical pronouncements, it is noted by the Committee that as per the defence of the Respondent, it was a normal practice for the Company to carry out the retrospective price rise and the same was acceptable to its franchises also. Even if for the sake of the argument, the defence of the Respondent is accepted, such practice signifies that revenue was being recognized on provisional values and based on contractual arrangement between the Company and franchisees a retrospective price increase was treated as a part of additional revenue earned. However, it is viewed that considering the nature of adjustment that used to be made it ought to have been disclosed in the significant accounting policies followed by Reebok specially in view of the quantum of amount involved. Thus, the Committee was of considered view that the Respondent is guilty of professional misconduct falling within the meaning of Clauses (5), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

8.6 As regards the allegation of not qualifying the audit report for the year 2010 regarding existence of FRP, the Respondent stated that there was no basis to qualify the accounts for the year 2010.

8.6.1 The Committee perused the Investigation report and noted as under:

"From above facts, evidence available during investigation, legal provisions and circumstances it is concluded that:

- *Deposits were accepted from the prospective franchisees and wherever, deposits were obtained from an existing customer/ supplier, the same had not been credited into their ledger accounts. No ledger accounts were opened in the books of RIC for the so called prospective franchisees.*

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- No advertisement was given in the newspapers for inviting the deposits from the public.
- No approval of the advertisement was taken by the Board of Directors. In fact, FRP scheme was not even discussed in the board meetings of RIC. Instead it was approved only by the MD and COO of the company.
- Interest on deposits was paid in the range of 24 % to 32 % p.a. as against permissible rate of 12.5% p.a. as per rules.
- Brokerage to employees had been paid in the name of incentives on the basis of amount of collection made by them whereas as per the rules the brokerage could be paid on the basis of the tenure of the deposits. No register of deposits was maintained by RIC.
- The deposits under FRP were taken mostly from the so called prospective franchisees even in those cases where deposits were accepted from existing franchisees, the amount collected FRP were not adjusted against their outstanding balances.
- No receipts for deposits were issued.
- No liquid assets were maintained as stipulated by the rules.
- Even the deposits were accepted from companies which did not satisfy the provision of section 372 A of the companies Act, 1956."

8.6.2 Further, the Committee noted that para 11 of the Guidance Note on 'Audit of Liabilities' explains the audit procedures to be adopted by an auditor for verification of liabilities when it states as follows:-

"Verification

11. Verification of liabilities may be carried out by employing the following procedures:

- (a) examination of records;
- (b) direct confirmation procedure;
- (c) examination of disclosure;
- (d) analytical review procedures;
- (e) obtaining management representations.

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The nature, timing and extent of substantive procedures to be performed is, however, a matter of professional judgment of the auditor which is based, inter alia, on the auditor's evaluation of the effectiveness of the related internal controls."

8.6.3 Moreover, the auditor's responsibility vis-à-vis Management Representation has been discussed in paragraph 60 Guidance Note on 'Audit of Liabilities when it states as follows:-

"60. The auditor should obtain from the management of the entity a written statement that all known liabilities have been recorded in the books and that all contingent liabilities have been properly disclosed. While such a representation letter serves as a formal acknowledgement of the management's responsibilities for proper accounting and disclosure of the relevant items, it does not relieve the auditor of his responsibility for performing audit procedures to obtain sufficient appropriate audit evidence to form the basis for the expression of his opinion on the financial statement."

8.6.4 From the above, the Committee noted that the deposits were accepted by the Company during 2010 and 2011 from both non-corporate and corporate entities. As the deposits received under FRP were wrongly credited to various sundry debtors to show improvement in aging profile of these debtors, it amounted to the falsification of account of RIC. Further, the interest payments on these deposits were also wrongly credited to a fictitious account, leading to falsification of books of account of the Company.

8.6.5 During the course of audit for the year 2010, the Respondent did come across a FRP agreement as well as money received thereon as reported in audit observation of Financial Year 2010 which is in direct contrast with the assertion that the Respondent was not aware of the fact that any money was received under FRP Programme during said financial year. It is noted that the Respondent has found the copy of the agreement (as submitted by the Respondent in written statement under 'Audit Process of 2010') and said agreement clearly states that for 'next phase of growth starting 2011. Accordingly, the assertion of the management that the FRP programme was not in existence in 2010 should have alarmed the Respondent to

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carry out more substantive tests to verify the veracity of the claims of the Company which seems to be clearly lacking in this case. The amounts observed to be received under FRP should have also been disclosed as 'advances' received instead of showing to be completely ignorant of such agreement.

8.6.6 Moreover, the Committee noted that adjustment of such receipt as collection from debtors is misrepresentation of facts which has not been reported by the Respondent as the statutory auditor of the Company. In view of these considered facts, the Committee was of considered view that the Respondent is guilty of professional misconduct falling within the meaning of Clauses (5), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

8.7 As regards the allegation of not qualifying the report for circuitous intra-group transactions, the Committee observed the investigation report of SFIO , which pointed out as under:

Summary of transactions with Shivam group:

- Goods were initially sent for refurbishing to Shivam and Oriya by RIC, which were later booked as Sales for Rs. 23.69 crore and Rs. 11.59 crore, respectively, to inflate sales.
- Against these sales RIC received payment of Rs. 1.87 crore from Shivam and Rs. 1.53 crore from Oriya.
- On instructions of officials of RIC, Sanjeev Mishra floated a new firm named Om Trading Co., to which goods worth Rs. 10.28 crore sold to Oriya were transferred.;
- Om Trading raised sales invoices for Rs. 15.65 crore during March to Nov. 2010 to transfer these goods to RIC.
- RIC paid Rs. 4.10 crore to Om Trading towards purchase of its own goods;
- RIC also paid Rs. 2.25 crore as refurbishing charges to Shivam on which taxes to the extent of Rs. 2,20,000/- were deducted at sources at RIC.;
- RIC got sales invoices worth Rs. 23.69 crore, drawn on Oriya discounted from Bank of America / Standard Chartered Bank on 21.12.09 and 29.12.09;
- RIC got sales invoices worth Rs. 11.59 crore, drawn on Shivam, discounted

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from Deutsche Bank on 7.11.09;

- No written agreement for refurbishing between the RIC and Shivam / Oriya;
- RIC falsified its books of account and financial statements for the year 2009, 2010 and 2011

8.7.1 In view of above, it was alleged that top management of RIC had used Shivam group of entities for inflation of sales. Fictitious invoices were alleged to be raised for obtaining finances from banks through bill discounting. The Respondent was aware of financial irregularities taking place in relation to transactions held with Shivam group of entities.

8.7.2 In view of this, the Respondent (auditor) has to increase level of substantive tests in case of intra-group transactions and ensure 100% verification put in place to rule out the possibility of any possible collusion/falsification which in the instant case, seems to be lacking. The Respondent chose to remain silent on the matters observed instead in its statutory audit report he has drawn attention simply to the fact that earlier debtors were being reflected net of invoices discounted with bank but debtors were reflected gross of bills discounted and liabilities towards bank. Such changes in policy showing sales return as part of dues from the parties clearly vitiate the true and fair view of the Balance Sheet.

8.7.3 In view of above, the Committee noted that the Respondent failed to report financial irregularities taking place in relation to transactions held with Shivam group of entities. Thus, he failed to exercise due diligence, while certifying the financial statements of the Company as a Statutory Auditor.

8.7.4 In view of these findings against the Respondent, the Committee was of the view that the Respondent is **GUILTY** of professional misconduct falling within the meaning of Clauses (5), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

8.8 After noting the above grave charges and observations in the investigation report of the SFIO, the Committee observed that the submissions of the Respondent before it mainly revolved around raising issues on the Rules and process followed in

the hearing, and at any point of time the Respondent neither submitted nor desired to submit his submissions on merits of the case. The Committee further observed that the technical issues raised by the Respondent have been responded by it appropriately keeping in view the relevant provisions of the Rules. The Committee was of the view that ample opportunities were given to the Respondent to make his submissions on merits before it, but the Respondent did not make any submissions / arguments on merits of the case in hearings so far held. The Committee felt that the role and responsibility of the Respondent in a particular assignment in the context of professional misconduct has to be considered and decided by it, as per the provisions of the Chartered Accountants Act, 1949 and Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The Committee further felt that sufficient time and opportunity have already been given to the Respondent, however, he is not forthcoming to argue the matter on the merits of the case. The Committee observed that all written submissions of the parties, documents / materials, evidence and Prima Facie Opinion of the Director (Discipline), were available on record, and since the Respondent withdrew from further proceedings of the Committee, and based upon the said documents/ material on record the hearing was concluded.

8.9. On overall consideration, the Committee also observed that Respondent had failed to report the deficiencies in internal control system of the Company, in his Audit Report under Companies (Auditor's Report) Order, 2003 (CARO, 2003) for the year ended 31-12-2010 inspite of the fact that he had raised issues with regard to such deficiencies in his audit observations during the course of audit. Thus, the Committee was of the view that the Respondent was not diligent while reporting under CARO,2003.

8.10 The Committee noted that goods of worth Rs.25.72 Crores, Rs.87.4 Crores and Rs.109.11 Crore were billed in the category of 'Billed but not dispatched' (BBND) in the year ended 31-12-2008, 31-12-2009 and 31-12-2010 respectively however, were not dispatched to customers and there was no 'normal' or standard time for clearing 'Billed but not dispatched' (BBND) goods in the Company as evident from the month wise BBND ageing report as on 31st December, 2008, 2009 and

2010 brought on record in the Investigation Report of the Complainant department. Thus, the Committee observed that there was a practice of recognizing revenue only on the basis of invoicing without dispatching goods or transferring risk/ rewards in goods sold. Moreover, the Respondent being auditor took verification through balance confirmation from as less as in only to 25% of cases. Such a practice was clearly adopted to support the Company in their fraudulent activities. The Respondent was well aware of said practice as it is evident from his audit observations. In other words, the Revenue was recognised in violation of Accounting Standard – 9 'Revenue Recognition'. Further, similar practice was followed over a span of three years ended in 2008, 2009 and 2010 when the Respondent was auditor and during which period the fraud was perpetuated.

8.11. The Committee also observed that the Respondent during audit of the Company for the year 2010 had come across the FRP agreement and further, he had stated in his 'Management Letter on audit' for the F.Y. ended 31-12-2010 that the Company had received certain amounts from parties as 'advances' under 'Franchisee Referral Program (FRP)' however, no franchisee was allotted to them at year end. It is observed that the Respondent in his written submissions had admitted that no amount in the Balance sheet was shown under the head 'Advance under FRP' as the Company's management and employees suppressed the information of any money received on account of FRP in the year 2010. Thus, the Committee was of the view that the Respondent was not diligent in performing his professional duties in the said context. In other words, the Respondent was well aware of the fact that certain deposits were received under the alleged FRP but the same was not disclosed in the Balance Sheet. However, the Respondent failed to report about the same in his audit report.

8.12 On overall consideration of the matter, the Committee viewed that the Respondent had failed to act independently and diligently while conducting audit of the Reebok India Company for the year ended 2008, 2009 and 2010. He had failed to disclose material facts in the financial statements. The Committee observed that the Respondent had failed to bring on record the evidences to show that he had exercised due diligence, and adequate checks and balances have been applied to

uncover wrongdoings if any during the statutory audit of the said Company. The Committee was of the view that it was incomprehensible to believe that the Respondent was not aware of the fact that the facts and figures and the transactions reflected in the books of the Company for the said years were not genuine. The Committee observed that the Respondent being statutory auditor of the Company have omitted to report/ highlight a number of important issues, such as, Franchisee Referral Programme(FRP), In and Out transactions, Circuitous transactions with Shivam group and goods Billed but not dispatch(BBND) which should have been reported in their audit reports in view of requirement of SA-706. The Committee further observed that the Respondent has failed to report material falsification of financial statements, and such acts of omission in discharge of his professional duties is not expected of a statutory auditor.

8.13 The Committee felt that the Respondent has failed to bring any evidence on record which could suggest that the finding/views arrived by Director (Discipline) in his Prima Facie Opinion is perverse. Therefore, the Committee considered the matter in detail including various further written submissions of the parties and viewed that the misconduct on the part of the Respondent has been established within the meaning of Professional and Other Misconduct as defined in Sections 21 and 22 of the Chartered Accountant (Amendment) Act 1949.

8.14 In view of the above, the Committee was of the opinion that the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Clauses (5), (7) & (8) of Part – I of the Second Schedule to the Chartered Accountants Act, 1949

9. 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:

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कॉम्प्लायर प्राची के सिंह प्रोवीसीयल सिग्नेचर
Yash Singh ad of Delhi
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:
Joint Director (CL), SFIO, Ministry of Corporate Affairs, Govt. of India, New Delhi -vs- CA. N Narasimhan (M. No. 81983)

Charge(s) as per PFO	Findings (Para Ref.)	Decision of the Committee
Para 2(i) as above	Para 8.1 to Para 8.1.9 as above	Guilty- Clauses (5), (7) & (8) of Part - I of the Second Schedule
Para 2 (ii) as above	Para 8.2 to 8.2.2 as above	Guilty- Clauses (5), (7) & (8) of Part - I of the Second Schedule
Para 2 (iii) as above	Para 8.3 to 8.3.3 as above	Guilty- Clauses (5), (7) & (8) of Part - I of the Second Schedule
Para 2 (iv) as above	Para 8.4 to 8.4.3 as above	Guilty- Clauses (5), (7) & (8) of Part - I of the Second Schedule
Para 2 (v) as above	Para 8.5 to 8.5.2 as above	Guilty- Clauses (5), (7) & (8) of Part - I of the Second Schedule
Para 2 (vi) as above	Para 8.6 to 8.6.6 as above	Guilty- Clauses (5), (7) & (8) of Part - I of the Second Schedule
Para 2 (vii) as above	Para 8.7 to 8.7.4 as above	Guilty- Clauses (5), (7) & (8) of Part - I of the Second Schedule

10. In view of the above observations, considering the submissions of the Respondent and the Complainant, documents on record, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Clauses (5), (7) & (8) of Part - I of the Second 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/-

(CA. MANGESH P KINARE)
MEMBER

DATE: 05/02/2024
PLACE: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy
Charan Singh
Charan Singh / Charan Singh
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
भारतीय सनदी लेखाकार संस्थान
The Institute Chartered Accountants of India
आईसीएआई भवन, विस्तार नगर, शाहपुरा, दिल्ली-110022
ICAI Bhawan, Vasant Nagar, Shahpura, Delhi-110022