



# 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/330/2019/DD/308/2019/DC/1501/2021]**

**In the matter of:**

**CA. Kishan Gopal Somani (M.No. 006238)**

3/15, Asaf Ali Road, 4<sup>th</sup> Floor,

New Delhi - 110002

.....Complainant

**Versus**

**CA. Pawan Gupta (M.No. 092170)**

Partner, M/s Narinder Arora & Co.,

Chartered Accountants,

111, Sewak Bhawan,

16/2, W E A,

Karol Bagh,

New Delhi - 110005

.....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. Mangesh P Kinare, Member (In person)
5. CA. Abhay Chhajed, Member (In person)

**DATE OF HEARING : 28<sup>th</sup> MARCH, 2024**

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

1. That vide Findings dated 05.02.2024 under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Disciplinary Committee was inter-alia of the opinion that **CA. Pawan Gupta (M.No. 092170)** (hereinafter referred to as the **Respondent**) is **GUILTY** of Professional Misconduct falling within the meaning of Items (5), (6), (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.



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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 28<sup>th</sup> March 2024.

3. The Committee noted that on the date of hearing on 28<sup>th</sup> March 2024, the Respondent was present through video conferencing, and he verbally reiterated his written representation dated 29<sup>th</sup> February 2024 on the Findings of the Disciplinary Committee, which, inter-alia, are given as under:-

(a) The Hon'ble Disciplinary Committee has not considered the replies filed by the Respondent dated 20th January 2021, 17th October 2021 and 07th November 2021. It construed that these findings are against the principle of natural justice.

(b) The Complaint contained factual errors as they have failed to apprise that every year renewal was done by the Complainant's client after taking and verification of all the documents and visit by branch officials from/of the Company including the verification of all the records.

(c) The Hon'ble Disciplinary Committee failed to observe that this Complaint was filed on frivolous grounds and without any substance and clinching evidence against the Respondent. The Complainant has not enclosed any documents showing dereliction of duties and responsibilities on the part of the Respondent.

(d) The Respondent prayed that the findings of the Hon'ble Disciplinary Committee dated 05.02.2024 in view of the submissions and documentary evidence be set aside.

4. The Committee considered the reasoning as contained in Findings holding the Respondent 'Guilty' of Professional Misconduct vis-à-vis written and verbal representation of the Respondent. The Committee noted that the issues/ submissions made by the Respondent as aforesaid have been dealt with by it at the time of hearing under Rule 18.

5. Thus, keeping in view the facts and circumstances of the case and material on record including written and verbal representation of the Respondent on the Findings, the Committee noted that during the hearing(s), the Counsel for the Respondent has admitted that he has no working papers related to the Statutory Audit of M/s Advance Surfactants India Limited as same were retained at the premises of the Company and all these facts have been disclosed by him in affidavit dated 25/09/2019 filed with NCLT. The Committee further noted that the Respondent

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In said affidavit has stated that his place of work was at corporate office of the Company and all the records of the Company were maintained at the corporate office of the Company till 2016.

6. Further, the Respondent confirmed in the affidavit that he is no more associated with the Company and he has no record or document related to the Company in his possession. The Committee was of the view that Respondent has failed to comply with generally accepted auditing principles issued by ICAI. The Committee held that the Respondent failed to fulfill the requirements of SA 230 'Audit Documentation'. In view of the requirements of SA 230, which was applicable to the Statutory Audit carried out by the Respondent for financial year 2014-2015, the Respondent did not comply with the requirements of SA 230 as he failed to retain in his custody audit documentation related to audit assignment of M/s Advance Surfactants India Limited undertaken by him for the prescribed period of seven years. In fact absence of any audit documentation with the Respondent raises serious doubts as regards proper conduct of Audit itself. Hence, the Professional Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 05<sup>th</sup> February 2024, which is to be read in consonance with the instant Order being passed in the case.

7. 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.

8. Thus, the Committee ordered that the name of the Respondent i.e. CA. Pawan Gupta (M. No. 092170) be removed from the Register of Members for a period of 01 (One) month.

Sd/-

(CA. RANJEET KUMAR AGARWAL)  
PRESIDING OFFICER

Sd/-

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

Sd/-

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

Sd/-

(CA. MANGESH P KINARE)  
MEMBER

Sd/-

(CA. ABHAY CHHAJED)  
MEMBER

यही प्रतिलिपि मंने के लिए प्रमाणित/  
Certified to be true copy

विवेक शर्मा / निमित्त शिवाजी  
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer  
अनुरागनाथरु निदेशालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
The Institute of Chartered Accountants of India  
आइसीआई भवन, विवेक नगर, शाहिदा, दिल्ली-110032  
ICAI Bhawan, Vivekanagar, Shaheed, 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/330/2019/DD/308/2019/DC/1501/2021]**

**In the matter of:**

**CA. KISHAN GOPAL SOMANI (M.No. 006238)**

M/s K.G. Somani & Co.,  
Delite Cinema Building,  
Gate No. 2, IIIrd Floor,  
Asaf Ali Road,  
New Delhi -110002

**.....Complainant**

**Versus**

**CA. PAWAN GUPTA (M.No. 092170)**

Partner, M/s Narinder Arora & Co.,  
Chartered Accountants,  
111, Sewak Bhawan,  
16/2, W E A,  
Karol Bagh,  
New Delhi - 110005

**.....Respondent**

**MEMBERS PRESENT:**

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

**Shri Jiwesh Nandan, I.A.S. (Retd.), Government Nominee (in person)**

**Ms. Dakshita Das, I.R.A.S. (Retd.), Government Nominee (in person)**

**CA. Mangesh P Kinare, Member (in person)**

**CA. Cotha S Srinivas, Member (in person)**

**DATE OF FINAL HEARING : 22<sup>nd</sup> January 2024**

*Ms*

**PARTIES PRESENT:**

**Complainant** : CA. Krishan Gopal Somani (through VC)  
**Respondent** : CA. Pawan Gupta (through VC)  
**Counsel for Respondent** : CA. Sandeep Manaktala (through VC)

**1. Background of the Case:**

The Complainant was appointed as a Resolution Professional in relation to the insolvency matter of M/s Advance Surfactants India Limited (hereinafter referred to as 'ASIL') and during the liquidation proceedings, he observed various non-compliances allegedly committed by the Respondent who was Statutory Auditor of ASIL for financial year 2014-2015.

**2. Charges in brief:**

The charges against the Respondent are summarized as follow:

- 2.1. The Respondent did not respond to any communication made by the Complainant as a Resolution Professional with him for seeking audit documentation, meaning thereby that the Respondent has not done any working before auditing and certifying the financials of ASIL.
- 2.2. The Company had five plants throughout India and no travelling expenses were appearing in the financials certified by the Respondent for the Financial Year 2014-15, to substantiate the fact that the Respondent visited these plants for audit purposes.
- 2.3. The Respondent had joined hands with the promoters to siphon off the funds of the ASIL, borrowed from the consortium of three Banks to the tune of over Rs 200 crores.
- 2.4. ASIL had opened various current accounts with different Banks which were not part of the consortium Banks that had lent working capital limits to the Company, and this was against the terms of the sanction of limits and also against the regulations of the RBI. The Respondent has not reported about the same in his audit report.
- 2.5. A huge amount of sales & purchases for the financial year 2014-15 has been reported by ASIL but allegedly they were fictitious as no corresponding details or stock records pertaining to above were available.

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- 2.6. The Respondent failed to reconcile balances with parties at the year ending 2014-15 and the Complainant had observed huge variation in figures/ balances on reconciliation/ confirmation of balances with the parties. The Respondent did not confirm the balance of debtors to the extent of Rs 292 crores.
- 2.7. ASIL got a huge working capital limit to the tune of Rs 300 crores sanctioned from Banks based on false high turnover, debtors and other assets etc. reported in the financial of years ending on 31.3.2015 and 31.3.2016 and these debtors and assets got disappeared in the subsequent year and the operations of the ASIL halted for lack of funds.
- 2.8. The Respondent was auditor in various associate Companies of ASIL and was familiar with the functioning of the entire group and the ongoing wrongdoings and with the support of his connivance, the promoters siphoned off the funds of the ASIL to the extent of over Rs. 300 crores.
- 2.9. The Respondent failed to comply with the various requirements of the CARO Report, Accounting Standards, and Companies Act, 2013.

3. **The relevant issues discussed in the Prima facie opinion dated 11<sup>th</sup> August 2020 formulated by the Director (Discipline) in the matter in brief, are given below:**

- 3.1. The Complainant raised various serious allegations against the Respondent in respect of audit of ASIL for the Financial Year 2014-15 including the non-cooperation of Respondent with the Complainant who was appointed as Resolution Professional by NCLT in respect of the said Company. The Respondent has not submitted any written statement in his defence. He has even remained silent at Rule 8(5) stage when additional documents / information were sought from him. This in a way strengthens the allegations of the Complainant that no documents were verified by the Respondent at the time of audit and also indicates the indirect admission of all the allegations levelled by the Complainant in the instant complaint.
- 3.2. The Respondent failed to report various irregularities or/and deviations as per Generally Accepted Accounting Principles, as he has not reported on compliance with various Accounting Standards, requirements of Companies Act, 1956/2013, etc. For instance, in ASIL's financial statements, cash flow statement is missing, reporting as per CARO was not proper, reporting as per requirements of AS-3, AS-18, AS-20, AS-15, AS-29 was not proper, reporting on physical verification of closing stock was not proper, reporting on

inter corporate lending was not properly done, adequacy of internal control systems was not properly reported, reporting on deposit of statutory dues was not done as per the requirements, no reporting was done for change in share capital during FY 2013-14 to 2014-15, no reporting was done for provisions, deferred taxes, depreciation etc.

- 3.3. The Director (Discipline) in Prima Facie Opinion dated 11<sup>th</sup> August 2020 held the Respondent Guilty of Professional Misconduct falling within the meaning of Items (5), (6), (7), (8) and (9) of Part - I of the Second Schedule to the Chartered Accountants Act, 1949. The said Items of the Schedule to the Act, states as under:

Item (5) of Part I of the Second Schedule:

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

(5) fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary in making such financial statement where he is concerned with that financial statement in a professional capacity;

Item (6) of Part I of the Second Schedule:

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

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

Item (7) of Part I of the Second Schedule:

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

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

Item (8) of Part I of the Second Schedule:

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

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

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Item (9) of Part I of the Second Schedule:

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

(9) fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances;

- 3.4. The Prima facie opinion formed by the Director (Discipline) was considered by the Disciplinary Committee at its meeting held on 10<sup>th</sup> August 2021. The Committee on consideration of the same, concurred with the reasons given against the charges and thus, agreed with the prima facie opinion of the Director (Discipline) that the Respondent is GUILTY of Professional Misconduct falling within the meaning of Clause (5), (6), (7), (8) and (9) 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 including particulars or documents relied upon by the Director (Discipline), if any, during the course of formation of prima facie opinion and the Respondent be asked to submit his Written Statement in terms of the provisions of the aforesaid Rules, 2007.

4. Date(s) of Written submissions/Pleadings by parties:

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

S. No.	Particulars	Dated
1.	Complaint in Form 'I' filed by the Complainant	07 <sup>th</sup> September 2019
2.	Date of Written Statement filed by the Respondent	....
3.	Rejoinder if any, by the Complainant	....
3.	Date of Prima facie Opinion formed by Director (Discipline)	11 <sup>th</sup> August 2020

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4.	Date of written submissions filed by the Respondent	20 <sup>th</sup> January 2021, 17 <sup>th</sup> October, 2021, 07 <sup>th</sup> November, 2021
5.	Date of written submissions/response filed by the Complainant	15 <sup>th</sup> January 2024

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

**5.1** The Respondent vide submissions dated 20<sup>th</sup> January, 2021, 17<sup>th</sup> October, 2021 and 7<sup>th</sup> November, 2021 has submitted as under:-

**5.1.1** The details sought by the Complainant regarding audited and signed balance sheet of the Company for year ending on 31<sup>st</sup> March 2016 was beyond the audit scope of the Respondent.

**5.1.2** All audit records were left at the Company's corporate office. The Balance Sheet and Profit and Loss Account for the year ended 31<sup>st</sup> March 2016 was not audited by the Respondent.

**5.1.3** The Respondent submitted as per Order dated 28/05/2019 passed under Section 7 of the Insolvency and Bankruptcy Code, 2016, there is no point relating to siphoning off funds by the promoters with active support of the Respondent. It is wrong on the part of the Complainant to put the Respondent and the Corporate Debtor on the same page and with the same allegations. It is the first and foremost responsibility of Corporate Debtor to furnish all the information desired by Resolution Professional.

**5.1.4** The Respondent provided audited accounts for the financial year ending 31<sup>st</sup> March 2015 to the Complainant and also placed on record the circumstances due to which no audit record was available with him. The Respondent placed a factual position neither before NCLT or Resolution Professional (Complainant).

**5.1.5** The Respondent submitted that the Complainant has not filed agenda(s), resolution(s) and also not enclosed the copy of the Forensic Audit Report dated 08<sup>th</sup> June 2018 along with Bank inspection report and concurrent audit report or any other report in support of

his claim. The Complainant has also not enclosed any documents which show the involvement of the Respondent.

## **6 Written submissions filed by the Complainant on 15.01.2024:**

- 6.1. The Complainant vide email dated 15<sup>th</sup> January 2024 stated that the submission/reply of the Respondent are without any working papers. The Complainant submitted that Respondent has denied all the charges of the Complainant and had not submitted anything on merits of the case. Thus, the Respondent failed to respond to any irregularities pointed out by the Complainant in Statutory Audit Report.
- 6.2. In the absence of any working papers, it is evident that the Respondent has not done any verification before signing the accounts and even does not have any working papers.

## **7 Brief facts of the Proceedings:**

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

<b>Particulars</b>	<b>Date of meeting(s)</b>	<b>Status</b>
1 <sup>st</sup> time	22 <sup>nd</sup> May 2023	Part heard and Adjourned at the request of the Respondent.
2 <sup>nd</sup> time	28 <sup>th</sup> November 2023	Part heard and Adjourned at the request of the Complainant.
3 <sup>rd</sup> time	14 <sup>th</sup> December 2023	Adjourned at the Request of the Respondent.
4 <sup>th</sup> time	26 <sup>th</sup> December 2023	Part heard and adjourned.
5 <sup>th</sup> time	09 <sup>th</sup> January 2024	Part heard and Adjourned.
6 <sup>th</sup> time	22 <sup>nd</sup> January 2024	Hearing concluded & decision taken.

- 7.2 On the day of first hearing on 22<sup>nd</sup> May 2023, the Committee noted that the Complainant along with Counsel were present through Video conferencing mode. Thereafter, the Complainant was put on oath. Thereafter, in view of Rule 18(9) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee adjourned the case to a later date and accordingly, the matter was part heard and adjourned.

- 7.3 On the day of hearing on 28<sup>th</sup> November 2023, the Committee noted that the Respondent along with Counsel were present through Video conferencing mode. The office apprised the Committee that the Complainant vide email dated 18<sup>th</sup> November 2023 has sought adjournment due to his prior engagement and requested to list the captioned matter on another date. The Committee noted that the Respondent had appeared first time before it for hearing and he was put on oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges and charges against the Respondent were read out. In response, the Respondent stated that he is aware about the charges but pleaded 'Not Guilty' on the charges levelled against him. Thereafter, the case was adjourned to later date.
- 7.4 On the day of hearing on 14<sup>th</sup> December 2023, the Committee noted that the Respondent along with Counsel were present through Video conferencing mode. The office apprised the Committee that the Counsel for the Respondent vide email dated 13<sup>th</sup> December 2023 sought adjournment as he has to collect information and records pertaining to the instant case. Hence, he required some more time to prepare arguments in this case. Acceding to the said request of the Respondent, the Committee adjourned the case to a later date.
- 7.5 On the day of hearing on 26<sup>th</sup> December 2023, the Committee noted that the Complainant and the Respondent along with Counsel were present through Video conferencing mode. The Respondent submitted that he had filed written submissions in year 2021, but the same were not received by the office and the Complainant, and the acknowledgement in regard to such receipt was not brought on record. The Committee therefore directed the Counsel for the Respondent to provide the copy of written submissions of the Respondent to the office and the Complainant immediately, so that the Complainant may file his response if any to the same before next date of hearing. Thus, the Committee adjourned the case to a future date.
- 7.5 On the day of hearing on 09<sup>th</sup> January 2024, the Committee noted that the Complainant and the Respondent along with Counsel were present through Video conferencing mode. The Committee directed the Complainant and the Respondent to make their submissions. The Complainant submitted that he has not yet received the written submissions of the Respondent, as per the direction of the Committee at its meeting held on 26.12.2023. The Counsel for the Respondent submitted that the same was sent to the Complainant through e-mail, whereas the Complainant denied to have

received the same. The Committee directed the office to provide the written submissions of the Respondent to the Complainant through e-mail and also by hand delivery, and with the instruction to the Complainant to submit his written submissions thereon if any, within 3 days with copy to the Respondent. With this, the case was part heard and adjourned.

- 7.7 On the day of final hearing on 22<sup>nd</sup> January 2024, the Committee noted that the Complainant and the Respondent along with Counsel were present through Video conferencing mode. The Committee noted the written submissions of the Complainant filed by him vide mail dated 15.01.2024, in compliance with the direction of the Committee wherein, the Complainant had stated that the Respondent has not replied to any of allegations on merits and had not brought on record working papers related to audit. The Committee asked the Counsel for the Respondent to make his submissions on merits of the case. The Counsel submitted that at present, he has no working papers with him and all working papers related to audit were kept at premise of the Company and he has no authority to enter into premise of the Company. He further submitted that the Respondent had filed an affidavit before NCLT dated 25/09/2019 wherein he had disclosed all the facts of the case.
- 7.8 After detailed deliberations, and on consideration of the facts of the case, various documents / material on record as well as the oral and written submissions of the parties, the Committee concluded the hearing in the instant case.

**8 Findings of the Committee:**

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

- 8.1 The Committee noted that allegations against the Respondent are that the Complainant was appointed as a Resolution Professional in relation to the insolvency matter of Company 'ASIL' and during the liquidation proceedings, he observed various non-compliances allegedly committed by the Respondent (explained in paras 2.1 to 2.9 above) who was Statutory Auditor of ASIL for financial year 2014-2015.

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- 8.2 The Committee noted that the Director (Discipline) forwarded a copy of the complaint in Form 'I' containing allegations of the Complainant to the Respondent at his registered professional address vide letter dated 11<sup>th</sup> November, 2019 with a request to submit his Written Statement. As the said letter got returned back with postal remark as "no person found at the premises", a letter dated 25<sup>th</sup> November, 2019 was sent to his registered residential address followed by a reminder dated 6<sup>th</sup> January, 2020. The Respondent vide email dated 15<sup>th</sup> January, 2020 sought an extension of 15 days for filing written statement. The Respondent vide Directorate's letter dated 20<sup>th</sup> January, 2020 was requested to submit his response within 15 days of the date of receipt of the said letter. However, neither any response was filed, nor any communication was made by the Respondent with the Directorate in this regard. Thereafter, the Director (Discipline) vide letter dated 6<sup>th</sup> March, 2020 called additional documents from the Respondent in terms of Rule 8(5) of the Rules, but the Respondent did not submit any documents / reply to said letter. In view of above, the Committee noted that the Respondent failed to file any reply to Director (Discipline) inspite of ample opportunities being extended at the prima facie stage.
- 8.3 Thereafter, the Committee noted that the Respondent filed written submissions on 20<sup>th</sup> January 2021, 17<sup>th</sup> October, 2021 and 07<sup>th</sup> November, 2021. On perusal of these submissions, the Committee observed that the Respondent has not submitted any working papers related to audit of ASIL nor has he replied upon any query/allegation raised by the Complainant on merit basis.
- 8.4 Further, the Committee noted that during the hearing(s), the Counsel for the Respondent/Respondent has admitted that he has no working papers related to the Statutory Audit of the ASIL as same were retained at the premises of the Company and all these facts have been disclosed by him in affidavit dated 25/09/2019 filed with NCLT. Further, the Committee noted that the Respondent in said affidavit has stated that his place of work was at Corporate office of the Company and all the records of the Company was maintained at the Corporate office of the Company till 2016. Further he confirmed in the affidavit that he is no more associated with the Company and he has no record or document related to the Company in his possession.

8.5 In view of above submissions of the Counsel for the Respondent, the Committee noted that Respondent has failed to comply with generally accepted auditing principles issued by ICAI. The Committee observed that the Respondent failed to fulfill the requirements of SA 230 'Audit Documentation'. The Committee noted the relevant paragraphs of SA 230, which are given here under:

***"Para 8: The auditor shall prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand:***

- a. The nature, timing, and extent of the audit procedures performed to comply with the SAs and applicable legal and regulatory requirements;***
- b. The results of the audit procedures performed, and the audit evidence obtained; and***
- c. Significant matters arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions.***

*Para 9 In documenting the nature, timing and extent of audit procedures performed, the auditor shall record:*

- a. The identifying characteristics of the specific items or matters tested;*
- b. Who performed the audit work and the date such work was completed; and*
- c. Who reviewed the audit work performed and the date and extent of such review.*

*Para 10: The auditor shall document discussions of significant matters with management, those charged with governance, and others, including the nature of the significant matters discussed and when and with whom the discussions took place.*

*Para 11 If the auditor identified information that is inconsistent with the auditor's final conclusion regarding a significant matter, the auditor shall document how the auditor addressed the inconsistency.*

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*Departure from a Relevant Requirement*

*Para 12 If, in exceptional circumstances, the auditor judges it necessary to depart from a relevant requirement in a SA, the auditor shall document how the alternative audit procedures performed achieve the aim of that requirement, and the reasons for the departure.*

*Assembly of the Final Audit File*

**Para 14: The auditor shall assemble the audit documentation in an audit file and complete the administrative process of assembling the final audit file on a timely basis after the date of the auditor's report.**

**Para 15: After the assembly of the final audit file has been completed, the auditor shall not delete or discard audit documentation of any nature before the end of its retention period".**

- 8.7 Moreover, the Committee noted the requirement of para A25, Standard on Quality Control (SQC) 1: Ownership of Audit Documentation, "Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements", issued by ICAI, which provides that, "unless otherwise specified by law or regulation, audit documentation is the property of the auditor. He may at his discretion, make portions of, or extracts from, audit documentation available to clients, provided such disclosure does not undermine the validity of the work performed, or, in the case of assurance engagements, the independence of the auditor or of his personnel".
- 8.8 Thereafter, the Committee noted that the Respondent filed his written submissions after formation of prima facie opinion of Director (Discipline). However, on perusal of these written submissions, the Committee observed that the Respondent did not make any submissions on merits of the case to counter the allegations (contained in para 2.1 to 2.9 above) of the Complainant rather he raised procedural issues. The Committee further observed that the Respondent had also not responded to the Complainant when he had asked for various information in the capacity of being a Resolution Professional in the insolvency matter of ASIL/ Corporate Debtor in which stake of various

stakeholders was to be considered by the Complainant in the capacity of a Resolution Professional. This non-cooperation on the part of the Respondent had led the Complainant to file a non-cooperation application before the NCLT.

- 8.9 Moreover, the Committee noted that the Respondent submitted before the Committee that his working papers/audit documents were retained at the Company's Corporate office as he was allotted separate room/space for the purpose.
- 8.10 The Committee observed that SA 230 'Audit Documentation' prescribes the minimum period of retention of engagement documentation as seven years. Considering the provisions of SA 203 and SQC 1 above, the Committee is of the view that onus of custody of 'Audit Documentation' and retention of the same for the prescribed period of seven years vests with the Respondent and in any case he cannot shift the onus to other person(s) or auditee client for its custody or retention. Further, the Committee observed that the statement of the Respondent that audit working papers were retained at Company's Corporate office is an afterthought as he failed to substantiate the same with corroborated evidence.
- 8.11 In view of above requirements of SA 230, which was applicable to the Statutory Audit carried out by the Respondent for financial year 2014-2015, the Committee was of the considered view that the Respondent did not comply with the requirements of SA 230 as he failed to retain in his custody audit documentation related to audit assignment of ASIL undertaken by him for the prescribed period of seven years.
- 8.12 The Committee after considering the facts of the case and admission of the Respondent before the Committee that working papers were not retained by him in respect of said audit assignment and in absence of any submissions on merits of the case, was of the view that it has no option, but to hold the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Items (5), (6), (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.
- 8.13 Thus, on consideration of overall facts as above, submissions, and documentary evidence(s)/material on record and after thoroughly considering the charges against the Respondent, the Committee held the Respondent **GUILTY** of Professional Misconduct



falling within the meaning of Items (5), (6), (7), (8) and (9) 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:

Charges (as per PFO)	Findings	Decision of the Committee
Paras 2.1 to 2.9 as above	Paras 8.1 to 8.13 as above	<b>GUILTY</b> – Items (5), (6), (7), (8) and (9) of Part I of the Second Schedule

**10** In view of the above observations, considering the oral and written submissions of the Complainant and the Respondent and material on record, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Items (5), (6), (7), (8) and (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-  
(CA. RANJEET KUMAR AGARWAL)  
PRESIDING OFFICER

Sd/- Sd/-  
(SHRI JIWESH NANDAN, I.A.S. {RETD.}) (MS. DAKSHITA DAS, I.R.A.S.{RETD.})  
GOVERNMENT NOMINEE GOVERNMENT NOMINEE

Sd/-  
(CA. MANGESH P KINARE)  
MEMBER

Sd/-  
(CA. COTHA S SRINIVAS)  
MEMBER

DATE:05.02.2024  
PLACE: NEW DELHI

सही प्रतिलिपि होने के लिए प्रमाणित /  
Certified to be true copy

मीनू गुप्ता / Meenu Gupta  
अतिरिक्त कार्यवाही अधिकारी / Sr. Executive Officer  
अनुशासनशासक निदेशालय / Disciplinary Directorate  
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
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