



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

PR/176/2021-DD/249/2021-DC/1685/2022

[DISCIPLINARY COMMITTEE [BENCH-II (2024-2025)]]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

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

IPR/176/2021-DD/249/2021-DC/1685/2022]

In the matter of:

**Ms. Himani Chouhan, Legal Advisor
M/s. SKS Business Services Limited,
Through Ms. Himani Chouhan, Legal Advisor,
604, Entice Near Jayantilal Park,
Ambli Bopal Road,
Ahmedabad - 380058.**

.....Complainant

Versus

**CA. Shubham Agarwal (M. No. 451352),
F-4, Kiran Apartment, Shyam Mira Mandal Colony,
Near Shyam Mandir,
Jaipur - 302023.**

.....Respondent

Members Present:-

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

Date of Hearing : 10th April, 2024

Date of Order : 28th May, 2024

1. That vide Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Disciplinary Committee was, inter-alia, of the opinion that **CA. Shubham Agarwal (M. No. 451352), Jaipur** (hereinafter referred to as the '**Respondent**') is **GUILTY** of Professional Misconduct and Other Misconduct falling within the meaning of Item (6) of Part I of the First Schedule, Item (2) of Part IV of the First Schedule and Item (1) and (2) of Part II 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



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to him thereby granting opportunity of being heard in person / through video conferencing and to make representation before the Committee on 10th April 2024.

3. The Committee noted that on the date of the hearing held on 10th April 2024, neither the Respondent was present before it nor was there any intimation as regard his non-appearance despite the due delivery of the notice for hearing and copy of the Findings of the Disciplinary Committee upon him.

3.1 The Committee also noted that the soft copy of the Findings of the Disciplinary Committee and the Notice for the hearing had also been sent to the email address available in the member records of ICAI. As per email delivery intimation for the said communication(s), the delivery of the said email(s) had been completed. The Committee further noted from the member records of ICAI that 'KYM' Form of the Respondent had been submitted and the same was found 'ok'.

3.2 Furthermore, the Committee noted that the Respondent did not submit his further written submissions on the Prima Facie Opinion during the course of hearing in the case. The Committee also noted that the aforesaid case was listed for hearing before it on four occasions and the Respondent did not appear even once during the hearing despite the due delivery of the communication for hearing. Accordingly, the case was concluded ex-parte on 13th December 2023.

3.3 Thus, the Committee was of the view that all possible efforts (speed post and email) have been made to ensure the delivery of the communication for hearing upon the Respondent, but he chose not to represent before the Committee. Keeping in view the provisions of Rule 19(1) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee was of the view that the Respondent has nothing more to represent before it and thus, decided to consider his case for award of punishment on the basis of material available on record.

4. The Committee considered the reasoning as contained in the Findings holding the Respondent Guilty of Professional and Other Misconduct.

5. Keeping in view the facts as well as circumstances of the case and material on record, the Committee with respect to the first charge held that the Respondent was not supposed to directly or indirectly solicit or attempt to solicit or establish the contact with the Company's customer and clients for providing any services connected to the Complainant Company. Thus, the Respondent was charged for breach of employment contract with M/s. SKS Business Services Private Limited and data theft. Further, the Respondent by such an act had not only violated the terms of employment but also lowered the image of the profession.

5.1 As regard the second charge, the Committee held that the act of the Respondent of seeking professional work without any enquiry by the Complainant Company's client is in violation of the ethical requirements as laid down in Code of Ethics issued by the ICAI.

5.2 As regard the third charge, the Committee held that the Respondent was offering and rendering services including audit service through a firm which was not registered with the ICAI, and the said act of



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the Respondent is in violation of the requirement of Regulation 190 of the Chartered Accountants Regulations, 1988.

5.3 Hence, professional and other misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 7th February 2024 which is to be read in consonance with the instant Order being passed in the case.

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

7. Thus, the Committee ordered that CA. Shubham Agarwal (M.No.451352), Jaipur be Reprimanded and also a Fine of Rs. 1,00,000/- (Rupees One Lakh only) be imposed upon him payable within a period of 60 days from the date of receipt of the Order.

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

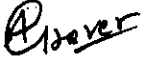
sd/-
(MRS. RANI S. NAIR, IRS (RETD.))
GOVERNMENT NOMINEE

sd/-
(SHRI ARUN KUMAR, IAS (RETD.))
GOVERNMENT NOMINEE

sd/-
(CA. SANJAY KUMAR AGARWAL)
MEMBER

sd/-
(CA. COTHA S SRINIVAS)
MEMBER

प्रमाणित सत्य प्रतिलिपि / Certified True Copy


श्री. ग्रोवर / ANJU GROVER
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
भारतीय सनदी लेखाकार संस्थान
The Institute of Chartered Accountants of India
आईसीएआई भवन, विरवाह नगर, शाहदरा, दिल्ली-110002
ICAI Bhawan, Viahwas Neger, Shahdra, Delhi-110002

CONFIDENTIAL

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

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

File No.: [PR/176/2021-DD/249/2021-DC/1685/2022]

In the matter of:

**M/s. SKS Business Services Limited,
Through Ms. Himani Chouhan, Legal Advisor,
604, Entice Near Jayantilal Park,
AmbliBopal Road,
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.....Complainant

Versus

**CA. Shubham Agarwal (M. No. 451352),
F-4, Kiran Apartment, Shyam Mira Mandal Colony,
Near Shyam Mandir,
Jaipur – 302023**

.....Respondent

MEMBERS PRESENT:

**CA. Ranjeet Kumar Agarwal, Presiding Officer (Present in person)
Smt. Rani Nair, Government Nominee (Present in person)
Shri Arun Kumar, Government Nominee (Present in person)
CA. Sanjay Kumar Agarwal, Member (Present in person)
CA. Sridhar Muppala, Member (Present in person)**

DATE OF FINAL HEARING : 13.12.2023 (through Physical/ video conferencing mode).

PARTIES PRESENT ON THE DATE OF FINAL HEARING:

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

BACKGROUND OF THE CASE: -

1. The brief background of the case is as under:
 - a. That M/s. SKS Business Services Private Limited through Ms. Himani Chouhan, Legal advisor, Jaipur (*hereinafter* referred to as the 'Complainant Company' and the "Complainant" respectively) has filed complaint in Form 'I' dated 7th August 2021 against CA. Shubham Agarwal (M. No. 451352) (*hereinafter* referred to as the 'Respondent').
 - b. The Respondent was an ex-employee of the Complainant Company who was issued with an offer cum appointment letter on 1st August 2019 for the post of Accountant by the Complainant Company and an employment contract was signed between the Respondent and the Complainant on 15th September 2019 which contains detailed agreement for engagement of the Respondent with the Complainant Company.
 - c. The services/employment contract of the Respondent was terminated w.e.f. 27th March 2020 as the Complainant noticed there were instances of breach of duties and the Respondent being away from desk.
 - d. After termination of services of the Respondent, it came to the Complainant's knowledge that the Respondent (while promoting the services of one Fintax Accounting Services) contacted some of the directors / senior officials of end clients of entities who were outsourcing the work to the Complainant Company.
 - e. As per the Respondent M/s Fintax Accounting Services was started by him prior to his registration as member of ICAI.

CHARGES IN BRIEF: -

2. The Committee noted that the charges against the Respondent were as under:
 - i. Breach of employment contract and data theft,
 - ii. Solicitation of work through personal communication, and
 - iii. Engagement in other business other than Chartered Accountancy.

Case

3. The Committee noted that the Respondent at the stage of PFO had inter-alia mentioned as under:

- a. As regards the **first charge**, he submitted that allegation of data theft against him is based on sheer assumption as the data was obtained by him through social sites. The e-mail ID mentioned by the Complainant was obtained through an online directory by him. He stated that there are various online sources from where one can get data related to name, e-mail, phone number etc.
- b. As regards the **second charge**, he submitted that the e-mail referred to in the complaint was not intentionally sent as it was triggered through some earlier scheduled email on outlook. The Respondent stated that no operation in the name of Fintax Accounting Services was continued after obtaining membership from the ICAI and apologizes for triggering the mail unintentionally.
- c. As regards the **third charge**, he submitted that the firm M/s Fintax Accounting Services was started by him before getting registered as member i.e., on 16th June' 2020. The Firm only exists online as it was not registered anywhere. The Respondent further stated that the firm was closed before the receipt of the notice from the ICAI and he showed his intention of not carrying it further.

4. The Director (Discipline) had, in his Prima Facie Opinion, noticed the following in relation to the stated allegations:

4.1 **First charge of breach of employment contract and data theft –**

- a. The Respondent stated that the said allegations are made on an assumption, and he had collected data through online directory. The Respondent provided a copy of some pages containing e-mails; however, he did not provide the source (website) from where the said e-mails were collected / downloaded by him. He only stated that he had collected it through a directory available online. On the contrary, the Complainant brought on record a copy of e-mail dated 12th March' 2021 sent by the

Respondent to david.j.f@btinternet.com wherein he introduced his firm "Fintax Accounting Service" and mentioned details of services provided by him. Further, the excel sheet containing mail Id's brought on record by the Respondent does not have the said e-mail id of M/s Faithful Fisheries (Tropical) Limited in question. The Complainant brought on record a copy of an e-mail sent by Mr. Dave (from e-mail Id:-david.j.f@btinternet.com) which was forwarded to the Company for verification of the sender. Though the Respondent stated that the said e-mail was triggered inadvertently as it was a scheduled e-mail, yet he failed to explain as to how and who has scheduled the e-mail.

- b. Moreover, as per clause 23 of the Employment contract signed by the Respondent, an employee of the Complainant Company was not supposed to directly or indirectly solicit or attempt to solicit or establish the contact with the Company's customer and clients for providing any services connected to the Complainant Company but the Respondent appears to have contacted the client of the Complainant Company within 12 months if the period is reckoned from the date of warning letter issued to the Respondent.
- c. In view of above facts and circumstantial evidence, it appears that the Respondent used the copied data of the Company in violation of the Employment Contract and the said act of the Respondent not only appears to have brought disrepute to the profession of the Chartered Accountants but also his actions are tantamount to use of confidential information acquired in the course of his employment.
- d. Accordingly, the Respondent was held prima facie **Guilty** of Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule and Item (2) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

4.2 **Second charge of solicitation of work through personal communication**

- a. That the Respondent had sent an e-mail dated 12th March' 2021 to M/s Faithful Fisheries (Tropical) Limited, a UK based company and from the said e-mail, it was observed that the Respondent had sent an e-mail to a client of the Complainant Company for solicitation of work. It was also

noted that the Respondent was unable to explain the manner in which the mail automatically got triggered through outlook as stated by him in his written statement.

- b. Hence, the act of the Respondent of seeking professional work without any enquiry by the Complainant Company's client is in violation of the ethical requirements as laid down in Code of Ethics issued by the ICAI read with Item (6) of Part I of First Schedule to the Chartered Accountants Act, 1949.
- c. Accordingly, the Respondent was held prima facie **Guilty** of Professional Misconduct falling within the meaning of Item (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

4.3 **Third Charge of engagement in other business other than Chartered Accountancy**

- a. That it is an admitted fact that the Respondent had opened a firm M/s. Fintax Accounting Services and designated himself as Managing Partner of the said firm. As per Item (11) of Part I of First Schedule to the Chartered Accountants Act, 1949, a Chartered Accountant in practice shall be deemed to be guilty of professional misconduct, if he engages in any business or occupation other than the profession of chartered accountants unless permitted by the Council so to engage.
- b. It is observed that the services offered by the Respondent through the firm (Fintax Accounting Services) covers those services which a practicing Chartered Accountant can offer and accordingly, the same cannot be considered as engagement in any other business or profession other than the Chartered Accountant. However, it appears to be a case where the Respondent opened a firm without getting it registered with ICAI and started offering services under the said firm name.
- c. On perusal of the firm and membership record, it was observed that the Respondent was doing practice under the firm name "M/s. S J AGARWAL & CO." and the said firm was duly registered with the ICAI w.e.f. 8th April 2022. Hence, the said firm "M/s. S.J. Agarwal & Co." was not in existence when the alleged communication dated 12.03.2021 was sent by the Respondent *wherein* services (including audit service) being rendered by the Respondent under the firm name "Fintax Accounting Services" were

mentioned. The firm "M/s. Fintax Accounting Services" does not appear to be registered with the ICAI.

- d. Thus, it becomes clear that the Respondent was offering and rendering services including audit service through a firm which was not registered with the ICAI, and the said act of the Respondent appears to be in violation of the requirement of Regulation 190 of the Chartered Accountants Regulations, 1988. Hence, the Respondent was required to get the firm name registered with ICAI before offering any services under the firm name, but he failed to do so.
- e. Accordingly, the Respondent was held prima facie **Guilty** of Professional Misconduct falling within the meaning of Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.
5. In view of the above, Director (Discipline) was of the prima facie opinion that the Respondent was **GUILTY** of Professional and 'Other' Misconduct falling within the meaning of Item (6) of Part I, Item (2) of Part IV of the First Schedule and Item(s) (1) & (2) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.
6. The said items in the Schedules to the Chartered Accountants Act, 1949 *wherein* the Respondent was held prima-facie Guilty by the Committee, states as under –

Clause (6) of Part I of the First Schedule:

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

(6) solicits clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means:

Provided that nothing *herein* contained shall be construed as preventing or prohibiting–

- (i) any chartered accountant from applying or requesting for or inviting or securing professional work from another chartered accountant in practice; or
- (ii) a member from responding to tenders or enquiries issued by various users

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of professional services or organisations from time to time and securing professional work as a consequence.

Clause (2) of Part IV of the First Schedule:

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

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

Clause (1) and (2) of Part II of the Second Schedule:

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

(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;

(2) being an employee of any company, firm or person, discloses confidential information acquired in the course of his employment except as and when required by any law for the time being in force or except as permitted by the employer.

7. The Committee noted that the Respondent has not made any further submissions after Prima Facie Opinion.

BRIEF FACTS OF THE PROCEEDINGS: -

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

S. No.	Date	Status of Hearing
1.	20.04.2023	Part Heard & Adjourned
2.	16.10.2023	Adjourned in absence of Respondent
3.	31.10.2023	Adjourned in absence of Respondent
4.	13.12.2023	Concluded in absence of both parties.

9. On the day of the first hearing held on 20th April 2023, the Committee noted that the Complainant was present through Video Conferencing Mode. The Committee further noted that the Respondent was not present, and no intimation was received from him. The Complainant was administered on Oath. The Committee decided to provide one more opportunity to the Respondent. Thereafter, looking into the fact that this was the first hearing, the Committee decided to adjourn the hearing to a future date. With this, the hearing in the matter was partly heard & adjourned.
10. On the day of second hearing held on 16th October 2023, the Committee noted that despite due delivery of notice and information over the phone, the Respondent did not care to appear before the bench. Thereafter, the Committee posed certain questions to Complainant to understand the issue involved and the role of the Respondent in the case. After considering the same, on account of natural justice the Committee decided to give a last chance to Respondent to appear physically before the bench in the next hearing. Accordingly, the case was adjourned in the absence of Respondent.
11. On the day of third hearing dated 31st October 2023 at Jaipur, the Committee noted that the Complainant *vide* email dated 27th October 2023 submitted that the Committee may take a decision on the basis of documents on record. The Respondent did not appear despite due delivery of notice. The Committee, in the absence of both the parties, decided to give a final opportunity to the Respondent failing which the matter would be decided *ex-parte*. Accordingly, the matter was adjourned to the next date.
12. On the day of final hearing dated 13th December 2023, the Committee noted that both the parties were absent. The Committee noted that though the Respondent was not present in previous hearings despite due delivery of notice/email, however he was involved in doing full time practice by generating UDINs (Unique Document Identification Number) on various dates as provided by UDIN Directorate of ICAI. The Committee looking into the fact and on the grounds of natural justice noted that, it had already extended sufficient

opportunities to the Respondent to present his case and despite the same there was no reply from the Respondent, and decided to proceed with this case ex-parte while considering the material available on record. Thereafter, the Committee, looking into the Complainant's submissions, documents on record and the absence of Respondent in all the hearings, decided to conclude the hearing.

FINDINGS OF THE COMMITTEE: -

13. The Committee noted that the Respondent was ex-employee of the Complainant Company i.e., M/s. SKS Business Services Private Limited. The charge against the Respondent originated from breach of employment contract by using the data of the Complainant Company for solicitation of work from the clients of the Complainant Company.

First charge of breach of employment contract and data theft -

14. The Committee as regards to the charge of breach of employment contract and data theft, noted that the Respondent's contention was that allegation of data theft against him is based on sheer assumption as the data was obtained by him through social sites and the e-mail ID mentioned by the Complainant was obtained through an online directory. However, the Respondent did not provide the source (website) from where the said e-mails were collected / downloaded by him.

- 14.1 The Committee noted that on the contrary the Complainant brought on record a copy of e-mail dated 12th March, 2021 sent by the Respondent to david.j.f@btinternet.com wherein he introduced his firm "Fintax Accounting Service" and mentioned details of services provided by him.

- 14.2 The Committee further noted that vide said email the Respondent introduced his firm "Fintax Accounting Service" and mentioned details of services provided by him to the clients of the Complainant. Though the Respondent

stated that the said e-mail was triggered inadvertently as it was a scheduled e-mail, yet he failed to explain as to how and who had scheduled the said e-mail.

14.3 The Committee further noted that the Respondent was issued with an offer cum appointment letter on 1st August 2019 for the post of Accountant by the Complainant Company and an employment contract was signed between the Respondent and the Complainant on 15th September 2019 which contains detailed agreement for engagement of the Respondent with the Complainant Company.

14.4 The Committee noted that term no. 23 of the said employment contract states as under:

23. Non-Solicitation

During the course of employment and for a period of [12 months] following the cessation of employment with the Company, you shall not, directly or indirectly, either as an individual on his own account or as a partner, employee, consultant, advisor, agent, contractor, director, trustee, committee member, office bearer, or shareholder (or in a similar capacity or function):

- a. Solicit or attempt to solicit the employment of or advise any of the Company's existing employees to terminate his or her contract or relationship with Company;
- b. Solicit or attempt to solicit or establish contact with the Company's customers and clients for providing to third parties, any services connected to the Company's business

You shall not, directly or indirectly, engage in any activities that will potentially lead to interference in the business of the Company or that may harm the business interests of the Company or its clients in any manner.

14.5 The Committee further noted that the services/employment contract of the Respondent was terminated w.e.f. 27th March 2020, hence sending an email on 12th March 2021 is breach of term no 23 of employment contract. The Respondent was not supposed to directly or indirectly solicit or attempt to solicit or establish the contact with the Company's customer and clients for providing any services connected to the Complainant Company.

14.6 The Committee noted that the Respondent by such an act had not only violated the terms of employment but also lowered the image of the profession. The Committee further noted that the Respondent never appeared before the Committee despite the notice(s) being duly served to him and despite the fact

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that one hearing was held at Jaipur i.e. the professional address of the Respondent. The Committee noted that Respondent was also generating UDIN and his absence from hearings proves his disrespect to the Bench also.

14.7 Accordingly, the Committee holds the Respondent **Guilty** of Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule and Item (2) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.

Second charge of solicitation of work through personal communication

15. The Committee noted that with regard to the charge of solicitation of work through personal communication, the Respondent had sent an e-mail dated 12th March 2021 to M/s. Faithful Fisheries (Tropical) Limited, a UK based company (client of the Complainant Company) for solicitation of work which reads as under :

Hello,
Good Morning!

I take immense pleasure in introducing to you Fintax Accounting Services, a five year old firm based in India in the business of providing business related services.

Following are the key services we specialize in-

- Bookkeeping and VAT Services – fast efficient and normally cheaper too.
- Monthly or Quarterly Management Accounts – to help you make the best decisions.
- Annual year end accounts (Cash based & Backup based) and Corporation Tax Return.
- Payroll Services – including auto-enrolment.
- Tax Planning – expert advice on your personal requirements.
- Audit Services – we have experience of Audit in all sectors.

We are currently serving client based in UK, Australia & Canada with their businesses. We have dedicated team of 25+ professionals consisting of ACCA, Indian Chartered Accountant & MBAs.

We have experience of working on platforms such as IRIS, Sage, Quickbooks, Xero, Wave, Etc.

We would really appreciate if we can get an opportunity to serve you.

Contact the undersigned in case of query or details needed.

Shubham Agarwal
Managing Partner
Fintax Accounting Services"

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- 15.1 The Committee noted that the Respondent at prima-facie stage had mentioned that the email was automatically triggered. However, the Committee observed that the Respondent was unable to explain his submissions and failed to support his defense with proper documents.
- 15.2 The Committee in absence of defence from the Respondent was of the view that the Respondent acted in violation of the ethical requirements as laid down in Code of Ethics issued by the ICAI.
- 15.3 Accordingly, the Committee holds the Respondent **Guilty** of Professional Misconduct falling within the meaning of Item (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949 on this charge.

Third Charge of engagement in other business other than Chartered Accountancy

16. The Committee noted that it is an admitted fact that the Respondent had opened a firm M/s. Fintax Accounting Services, and he has designated himself as Managing Partner of the said firm.
- 16.1 On perusal of the firm and membership record, it is observed that the Respondent was enrolled as member of ICAI on 16th June 2020 and was holding Certificate of Practice (COP) since 29th July 2020.
- 16.2 It is further observed that the Respondent is doing practice under the firm name "M/s. S J AGARWAL & CO" and the said firm is duly registered with the ICAI w.e.f. 8th April, 2022.
- 16.3 The Committee noted that from the email dated 12.03.2021 (mentioned in para 15 above), it is apparent that the Respondent in said communication had

mentioned services (including audit service) being rendered by the Respondent under the firm name "Fintax Accounting Services". The Committee noted that the Respondent never registered firm name "Fintax Accounting Services" with the ICAI.

16.4 The Committee further noted that the Respondent was required to get the firm name registered with ICAI before offering any services under the firm name, but he failed to do so. Hence, he acted in violation of the requirement of Regulation 190 of the Chartered Accountants Regulations, 1988 which states under:

"190. Register of offices and firms

(1) A chartered accountant in practice or a firm of such chartered accountants shall, before commencement of practice in a trade name or firm name, apply to the Council in the form approved by the Council for approval to use a trade or a firm name:*

PROVIDED that a chartered accountant in practice who wishes to practise in his own name need not apply for approval as aforesaid."

16.5 In view of the above provisions, the Committee noted that the Respondent was required to get the firm name registered with ICAI before offering any services under the firm name but he failed to do so.

16.6 Accordingly, the Committee holds the Respondent **Guilty** of Professional Misconduct falling within the meaning of Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 with respect to instant charge.

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CONCLUSION

17. In view of the above observations, considering the submissions of the Respondent and documents on record, the Committee holds the Respondent **GUILTY** of Professional and Other Misconduct falling within the meaning of Item (6) of Part I, Item (2) of Part IV of the First Schedule and Item (1) & (2) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

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

SD/-
(SMT. RANI NAIR, I.R.S. (Retd.))
GOVERNMENT NOMINEE

SD/-
(SHRI ARUN KUMAR, I.A.S. (Retd.))
GOVERNMENT NOMINEE

SD/-
(CA. SANJAY KUMAR AGARWAL)
MEMBER

SD/-
(CA. SRIDHAR MUPPALA)
MEMBER

DATE: 07TH FEBRUARY, 2024

PLACE: NEW DELHI

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

Charan Singh

चरण सिंह / Charan Singh

कार्यकारी अधिकारी / Executive Officer

अनुशासनात्मक निदेशालय / Disciplinary Directorate

भारतीय सशुद्ध लेखाकार संस्थान

The Institute Chartered Accountants of India

आईसीआईएन बिल्डिंग, विश्व नगर, शाहदरा, दिल्ली-110032

ICAI Bhawan, Vishwa Nager, Shahdra, Delhi-110032