



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-III (2024-2025)]

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

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

PR/G/449/2022/DD/387/2022/DC/1736/2023

In the matter of:

Sh. Jayant Arya,

Registrar of Companies, Goa,
Daman and Diu, Government of India,
Ministry of Corporate Affairs
Corporate Bhawan, EDC Complex, Plot No. 21, Patto,
Panaji (GOA) – 403001

.....Complainant

Versus

CA. Tej Prasad Paudel (M.No. 236651)

No. 29, 2nd Floor,
1st Main Road Vijay Nagar,
Opp. Vijay Nagar Club
Bangalore – 560040

.....Respondent

MEMBERS PRESENT:

CA. Charanjot Singh Nanda, Presiding Officer (Present in Person)

Smt. Anita Kapur, Government Nominee (Present through Video Conferencing Mode)

Dr. K. Rajeswara Rao, Government Nominee (Present through Video Conferencing Mode)

CA. Piyush S. Chhajed, Member (Present in person)

Date of Hearing: 19th March 2024

Date of Order : 8th 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 dated 25th July 2023, the Disciplinary Committee was, inter-alia, of the opinion that **CA. Tej Prasad Paudel (M.No. 236651)** (hereinafter referred to as the “**Respondent**”) was **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

2. The Respondent was the auditor of M/s NITP Marketing Services Private Limited (hereinafter referred to as ‘**the Company**’). The charge against the Respondent was that he generated Unique Document Identification Number (UDIN) before getting the Balance Sheet for the financial Year 2018-19 signed by the Directors of the Company.

3. That pursuant to the said findings, an action under Section 21B(3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and a communication was



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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.

4. The Committee noted that on the date of hearing held on 19th March 2024, the Respondent was present through Video Conferencing Mode and made his verbal submissions on the findings of the Disciplinary Committee. The Committee noted that the Respondent relied on his written submissions dated 14th March 2024 stating as under:

- a. That the UDIN was generated in good faith without any malafide intention and without any intention to defeat the purpose of UDIN.
- b. That there was a breach of trust by another member of ICAI who certified and uploaded the unauthenticated documents in Form AOC-4 (SRN R21746649), to the MCA portal, based on which the extant complaint was filed.
- c. That he neither certified nor uploaded Form AOC-4.
- d. That he is not a repeated offender, and this is the only allegation raised against him in his 9 years of professional career.
- e. That he will be more cautious and diligent in the performance of his professional duties in the future.
- f. That it is requested to take a lenient view and pardon him for this one instance.

5. The Committee considered the reasoning as contained in the findings holding the Respondent Guilty of professional misconduct vis-à-vis written and verbal representation of the Respondent made before it.

6. Keeping in view the facts and circumstances of the case, material on record including verbal and written representations on the findings, the Committee is of the view that the Respondent admitted that he generated UDIN before getting the Balance Sheet signed by the Directors of the Company i.e., M/s NITP Marketing Services Private Limited for the financial year ended 2018-19.

7. The Committee noted that professional misconduct on the part of the Respondent is clearly established as spelt out in its findings dated 25th July 2023 which is to be read in conjunction with the instant Order being passed in the case. The Committee further noted that there is a lack of due diligence on the Respondent's part, however, no malicious intention of the Respondent was noted in the given matter.

8. The Committee, hence, viewed that the ends of justice will be met if appropriate punishment commensurate with his professional misconduct is given to him..



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9. Accordingly, the Committee, upon considering the nature of charge and the gravity of the matter ordered that the name of **CA. Tej Prasad Paudel (M.No. 236651)** be removed from the Register of Members for a period of 1 (One) month.

Sd/-

(CA. CHARANJOT SINGH NANDA)
PRESIDING OFFICER

Sd/-

(SMT. ANITA KAPUR)
GOVERNMENT NOMINEE

Sd/-

(DR. K. RAJESWARA RAO)
GOVERNMENT NOMINEE

Sd/-

(CA. PIYUSH S CHHAJED)
MEMBER

DATE : 8th May, 2024

PLACE: New Delhi

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2023-24)]
[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

Ref. No.: PR/G/449/2022/DD/387/2022/DC/1736/2023

In the matter of:

Sh. Jayant Arya,
Registrar of Companies, Goa,
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No. 29, 2nd Floor,
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Bangalore – 560040

.....Respondent

MEMBERS PRESENT:

CA. Aniket Sunil Talati, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
Dr. K Rajeswara Rao, Member (Govt. Nominee)
CA. Sushil Kumar Goyal, Member

Date of Final Hearing: 21st June, 2023 through Video Conferencing

PARTIES PRESENT:

(i) Shri Jayant Arya (ROC) – Complainant
(ii) CA. Tej Prasad Paudel - Respondent
(Both appeared from their respective personal location)

Charges in Brief

1. 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 Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949. Item (7) of Part I of Second Schedule states as under: -

Part I of Second Schedule: Professional misconduct in relation to chartered accountants in practice

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”

Brief background and the allegations against the Respondent

2. The extant complaint was filed by the Registrar of Companies, Goa (hereinafter referred to as ‘**the Complainant/ the Complainant Department**’) wherein it was stated that the M/s NITP Marketing Services Private Limited (hereinafter referred to as ‘**the Company**’) filed its balance sheet for the financial year ended 2018-19 in e-form AOC-4 vide SRN R21746649. Upon scrutinizing the contents of the said e-form by the Complainant Department, it was observed that the balance sheet for the financial year ended 2018-19 was audited by the Respondent and that the attachments to the said e-form viz Auditors report, Balance Sheet, Profit and Loss account and Director’s report were without the signatures of the Directors and Auditor. Under Section 207 of the Companies Act, 2013, when the Respondent was summoned and questioned regarding the unsigned documents, the Respondent was reported to have submitted to have never signed the balance sheet because the accounts were first supposed to be signed by the authorised signatory of the Company and provided to the auditor for countersign and issuance of audit report. Thus, the Complainant alleged against the Respondent that he had generated Unique Document Identification Number (UDIN) before getting the Balance Sheet for the financial Year 2018-19 signed by the Directors of the Company.

Proceedings

3. During the hearing held on 21st June 2023, the Committee noted that the Complainant as well as the Respondent appeared before it through video conferencing for hearing. Thereafter, both of them gave a declaration that there was nobody else present in their respective room from where they were appearing and that they would neither record nor store the proceedings of the Committee in any form.

Being first hearing, the Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wished the charge to be read out or it could be taken as read. The Respondent stated before the Committee that he was aware of the allegation raised against him and the same might be taken as read. On being asked as to whether the Respondent pleaded guilty, he replied that he did not plead guilty and opted to defend the case against him. The Committee asked the Respondent to make his submissions. The Committee examined the Respondent on his submissions. The Complainant thereafter made his submissions. The Respondent made final submissions in the matter.

Based on the documents available on record and after considering the oral and/or written submissions of the parties concerned, the Committee concluded hearing in the matter.

Findings of the Committee

4. At the outset, it was noted that the Respondent had generated Unique Document Identification Number (UDIN) before the Balance Sheet of the Company for the financial Year 2018-19 was signed by the Directors of the Company.

4.1 The Respondent in his defense stated that UDIN was generated in good faith without any mala-fide intention and without any intention to defeat the purpose of UDIN. Since it was the first year for the implementation of UDIN to Audit Reports, the Respondent submitted that the UDIN was generated for printing of the financial statement before being signed. He submitted to be not aware of the fact that UDIN was not required to be mentioned in the Financial Statement and that its mention only on Audit Report was sufficient. Thus, as per him, it was a technical lapse in generation in UDIN. After receiving the summon notice from ROC, he downloaded the public documents from MCA Portal and came to know that financial statement was uploaded to MCA Portal without signature and without his knowledge and consent. The Respondent stated that there was breach of trust from another member of ICAI who certified and uploaded the unauthenticated documents in Form AOC-4 (SRN R21746649), to MCA portal based on which the extant

complaint was filed. The Respondent stated that he had neither certified nor uploaded Form AOC-4.

4.2 The Committee referred to UDIN details as available on UDIN portal of the Institute and noted that the status of the said UDIN was stated to be 'Active'. Further, on review of the 'Document details' as given by the Respondent while generating UDIN, it was noted that he had provided details in respect of 'Document Type', 'Type of Certificate', 'Figures/Particulars' and 'Document Description'. It was observed that as per the said details, the Respondent had mentioned to have generated alleged UDIN in relation to statutory audit of the Company for the financial statements of FY 2018-19 for discharging audit and assurance function. It was also noted that the alleged UDIN was generated on 29th October 2019 wherein the audit report was reported to be signed by him on 30th September 2019 thus indicating that UDIN was generated by him showing that he had signed Audit Report of the Company and that UDIN was generated after the lapse of almost a month therefrom. Further, it was noted that Gross Turnover/ Gross Receipt of Rs. 2,18,893/-, Shareholder Fund/ Owner Fund of (82,85,140) and Net Block of Property, Plant & Equipment of Nil amount was mentioned in UDIN 'document details' which was the same as mentioned in the Balance Sheet **(C-23 to C-24)**. Thus, it was evident that it was the Respondent who had generated UDIN for a set of financial statements which were neither signed by its directors nor the audit report on such financial statements was signed by the Respondent himself even though the Institute had advised the members that UDIN be generated by the members on the signature dates of Audit Reports.

It was viewed that the Respondent had failed to explain with any evidence as to how a UDIN generated in good faith was put on unsigned documents without his knowledge. Accordingly, it was viewed that the Respondent's submission that he was oblivious of the alleged financials along with audit report being considered as audited documents could not be accepted. With respect to the Respondent's plea that it was a separate member who had certified & uploaded the unauthenticated documents in Form AOC-4 to MCA portal, it was noted that separate proceedings were taking place against the said alleged member under Ref No. PR/G/450/2022/DD/388/2022/ DC/1769/2023 and that proceedings against each member was limited to his role in the alleged act.

5. In the light of above discussion, it was viewed that the Respondent had failed to exercise due diligence while performing his professional duties with respect to audit of M/s NITP Marketing Services Private Limited for the financial year ended 2018-19 and was grossly negligent while generating UDIN before getting the Balance Sheet signed by

the Directors of the Company. The admission on the part of the Respondent and the nature of misconduct speaks in volume about negligence while generating UDIN. As a prudent person it was expected that a member, in his professional capacity, would conduct his professional duties with utmost care and would follow the expected standards. Upon overall examination of facts and keeping in view the submissions of the parties and documents brought on record, the Respondent was held Guilty of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.

Conclusion

6. Thus, in conclusion, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.

Sd/-
[CA. Aniket Sunil Talati]
Presiding Officer

Sd/-
[Smt. Anita Kapur]
Member (Govt. Nominee)

Sd/-
[Dr. K. Rajeswara Rao]
Member (Govt. Nominee)

Sd/-
[CA. Sushil Kumar Goyal]
Member

Date: 25th July, 2023
Place: New Delhi