



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/133/2022/DD/113/2022 and
PR/G-148/22(Clubbed) - DC/1672/2022**

In the matter of:

**Ms. V Annapoorna,
Dy. Registrar of Companies, Karnataka,
Ministry of Corporate Affairs,
Kendriya Sadan,
2nd Floor, E Wing,
Koramangala,
Bengaluru - 560034**

.....Complainant

Versus

**CA. Rahul Chillal (M. No. 230503)
3rd Cross, Mahatma Basaveshwar Colony,
Kalaburagi (Karnataka) – 585105**

.....Respondent

MEMBERS PRESENT:

**CA. Charanjot Singh Nanda, Presiding Officer (Present in Person)
Smt. Anita Kapur, Government Nominee (Present in Person)
Dr. K. Rajeswara Rao, Government Nominee (Present through Video Conferencing Mode)
CA. Piyush S. Chhajed, Member (Present in person)**

Date of Hearing: 2nd May 2024

Date of Order: 31st July, 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 3rd October 2023, the Disciplinary Committee was, inter-alia, of the opinion that **CA. Rahul Chillal (M. No. 230503)** (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. That charge against the Respondent was that he was grossly negligent in the conduct of his professional duties while certifying e-Form SPICE of four Companies namely



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

M/s Fesolo Private Limited, M/s Solosime E-Commerce Private Limited, M/s Indofa E-Commerce Private Limited and M/s Webusi Technology Private Limited (hereinafter referred as the '**Subject Companies**'). It was alleged that the Respondent failed to verify the authenticity and completeness of the documents enclosed with incorporation form(s) and also failed to physically verify the registered office of the Companies in accordance provisions of the Companies Act, 2013. Further the Respondent had also failed to verify ownership papers/authorization documents from the owner of the property.

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 addressed to him thereby granting an opportunity of being heard in person/through video conferencing and to make representation before the Committee on 2nd May 2024.

4. The Committee noted that on the date of hearing held on 2nd May 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 had also submitted his written submissions vide letter dated 26th April 2024. The Respondent in his submissions had, inter-alia, submitted as under:

- a. That he had verified the electricity bill and No-Objection Certificate (NOC) from owner of the property for the purpose of the incorporation of the Company(ies). The person on whose name the electricity bill was generated and the name of the owner as per NOC was same which states that the owner gave the NOC for registration of the Company(ies).
- b. Regarding the observation that the same address was used by six Companies, he stated that it was difficult to find out how many Companies were registered on the same address.
- c. That to confirm the actual identity of the directors he had verified the details online through the Income Tax site, UIDAI website.
- d. Since NOC from owners and utility bills were provided to him and Mr. Prasad Nitturkar (who supplied these documents to him) had confirmed that he had physically verified the address, he decided not to conduct the physical verification of the address of these Companies.

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

6. Keeping in view the facts and circumstances of the case, along with the material on record including representations on the findings, the Committee noted that the Respondent while certifying e-form SPICE+ had specifically declared that he had personally verified the registered office of the Company whereas he in his submissions had accepted that he had not done the physical verification of the registered office of the Companies. The Committee further observed that the Respondent had failed to verify the ownership papers/ authorization documents from the owner of the property and had merely relied upon the



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

documents and assurance of Mr. Prasad Nitturkar. The Committee was of the view that the professionals should not bypass the requirements of proper KYC, OTP verification, and other regulatory compliances prescribed under Companies Act and Rules framed thereunder.

7. The Committee in its findings had clearly established that there was no proof of ownership or occupancy authorisation attached therein to show that NOC issuing individuals were owners or duly authorised occupants of the property. Accordingly, it was viewed that the Respondent was grossly negligent not only for certifying the incorrect details in SPICE+ regarding personally visiting the registered office, but also in verifying the ownership papers/ authorization documents from the owner of the property. This conduct of the Respondent establishes Professional Misconduct as per Item (7) of Part 1 of the Second Schedule to the Chartered Accountants Act, 1949.

8. The professional misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 3rd October 2023 which is to be read in conjunction with the instant Order being passed in the case.

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

10. Accordingly, the Committee, upon considering the nature of charge and the gravity of the matter ordered that the name of **CA. Rahul Chillal (M. No. 230503) be removed from Register of Members for a period of 60 (sixty) days and a fine of Rs. 20,000/- (Rupees Twenty Thousand only) be imposed upon him to be paid within 90 days of the receipt of the order and in case of failure in payment of fine as stipulated, the name of the Respondent be removed for a further period of 30 days from the Register of Members.**

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: 31ST JULY, 2024

PLACE: NEW DELHI

यह प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

विभागाध्यक्ष/ Bishwa Nath Tiwari
कार्यकारी अधिकारी/ Executive Officer
अनुशासनात्मक निदेशालय/ Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
भारतीय सनदी लेखाकार संस्थान, विश्वनाथ नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwanath Nagar, Shahdara, Delhi-110032

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/133/2022/DD/113/2022 and
PR/G-148/22(Clubbed) - DC/1672/2022**

In the matter of:

**Ms. V Annapoorna,
Dy. Registrar of Companies, Karnataka,
Ministry of Corporate Affairs,
Kendriya Sadan,
2nd Floor, E Wing,
Koramangala,
Bengaluru - 560034**

.....Complainant

Versus

**CA. Rahul Chillal
3rd Cross, Mahatma Basaveshwar Colony,
Kalaburagi (Karnataka) – 585105**

.....Respondent

Members Present:

**CA. Aniket Sunil Talati, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
Dr. K Rajeswara Rao, Member (Govt. Nominee)
CA. Piyush S Chhajed, Member**

Date of Final Hearing: 15th September 2023 through Video Conferencing

The following parties were present:

- (i) Sh. Varun BS, Dy. ROC, Karnataka – the Complainant's Representative**
- (ii) CA. Rahul Chillal – the Respondent
(appeared from their respective personal locations)**

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. It was noted that 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 Dy. Registrar of Companies, Karnataka (hereinafter referred to as 'the Complainant' or 'the Complainant Department') wherein it was stated that certain Chinese Nationals/ Individuals/ Entities with the help and support of professionals were involved in the formation of Companies and dummy persons were engaged as Directors/Subscribers for suspicious transactions on behalf of Chinese persons/ entities. These companies were allegedly incorporated for the purpose of fintech business to grant short term loans through loan apps or other means for providing quick unsecured cash loans to the needy at usurious rate of interest and high processing fees and recovering the amount with unethical means. It was further stated that the Chinese handlers of such fintech companies used KYC documents of BPO employees/ unemployed youth to register new companies by appointing them as directors and subscribers of memorandum of association without their knowledge with the active assistance of the professionals.

On acquaintance with the said information / facts, the Complainant Department conducted enquiry under Section 206(4) of Companies Act, 2013 into the affairs of various companies/ Individuals and the concerned professionals including the Respondent. The role of the Respondent as per complaint was with respect to incorporation of following four Companies which as per the Complainant were incorporated despite knowing that fabricated / fake documents were used for incorporation of these companies.

- a) M/s Fesolo Private Limited
- b) M/s Solosime E-Commerce Private Limited
- c) M/s Indofa E-Commerce Private Limited
- d) M/s Webusi Technology Private Limited

As per complaint, most of these companies were registered during Covid-19 pandemic both at first and second wave when people of the country were facing all sorts of problems

2.1 Keeping in view the aforesaid background, it was noted that the Complainant had broadly raised three allegations against the Respondent. However, after due investigation by Director (Discipline) in the matter, the Respondent was held prima facie guilty only in respect of following allegations and accordingly the extant proceedings were limited to only those charges:

(i) In respect of three companies namely M/s Fesolo Private Limited, M/s Indofa E-Commerce Private Limited and M/s Webusi Technology Private Limited, on physical verification of their registered offices, they were not found at the address certified by the Respondent in the respective SPICE+ forms and accordingly it was alleged that the Respondent had failed to verify the authenticity and completeness of the documents and also failed to physically verify the registered office of the Companies

(ii) that the Respondent had failed to verify ownership papers/ authorisation documents from the owner of the property.

Proceedings:

3. During the hearing in the matter on 15th September 2023, the Committee noted that the Complainant's Representative and the Respondent were present before it through video conferencing. The Committee asked the Complainant's Representative if he wished to submit any further information in relation to the matter to which he submitted to have already submitted the relevant information/documents on record.

Thereafter, the Committee asked the Respondent to make his submissions. The Committee examined the Respondent on his submissions. Thereafter, certain clarifications were sought from the Complainant based on submissions made by the Respondent. The Respondent made final submissions in the matter. Based on the documents and information available on record and after considering the oral and written submissions made by both the parties, the Committee concluded hearing in the matter.

Findings of the Committee:

4. At the outset, it was noted that the Respondent was alleged to have certified the incorporation forms (SPICE+) knowing that the documents / details submitted along with it were not genuine. The Complainant also raised an allegation that on physical verification of the registered office of the said Companies by officials of Complainant Department, three companies were not found at the given address as mentioned in the incorporation forms. The Committee noted that the Respondent had certified the incorporation forms (SPICE+) for following four companies:

- a) M/s Fesolo Private Limited (C-22 to C-36),
- b) M/s Solosime E-Commerce Private Limited (C-68 to C-83),
- c) M/s Indofa E-Commerce Private Limited (C-131 to C-145) and
- d) M/s Webusi Technology Private Limited (C-157 to C-171)

4.1 The Respondent in his submissions inter-alia submitted that there was no requirement of physical verification of premises under the Companies Act, 2013 and thus, the same was not mandatory. He also submitted that one Mr. Prasad Nitturkar, resident of Bidar, had contacted

him for incorporation of alleged four Companies. He informed the Respondent that the directors of proposed companies wanted to incorporate companies for software development, E-commerce, Games etc. and that he provided the Respondent all the documents for the Incorporation on behalf of directors. Since all the documents, KYC details & NOC had been provided, the Respondent initiated the Incorporation process and was acting in good faith. Further, Mr. Prasad also provided him OTPs from the mobile number & email id of directors, so as per him, the directors of the proposed companies were aware of their incorporation as they were providing all the details like Aadhar OTPs which were received directly on their mobile numbers. He also submitted that he had only incorporated the companies and that he was neither involved in managing the companies nor was involved in the opening of Bank accounts or certifying INC-20A.

With respect to physical verification of premises, he submitted that the alleged companies were incorporated during the period of June 2021 to September 2021 when there was Covid pandemic second wave and on account of lockdown and travel restrictions in the state of Karnataka, it was impracticable for him to visit the premises of the incorporated companies. Also, since the required documents like NOC & Utility bill, required for incorporation of companies, were provided by Mr. Prasad, physical verification of the premises was not done. .

4.2 The Committee noted that the Respondent while certifying the SPICe+ form, declared as under:-

"Who is engaged in the formation of the company declare that I have been duly engaged for the purpose of certification of this form. It is hereby also certified that I have gone through the provisions of the Companies Act, 2013 and rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original/certified records maintained by the applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed. I further certify that;

(i) the draft memorandum and articles of association have been drawn up in conformity with the provisions of sections 4 and 5 and rules made thereunder, and

(ii) all the requirements of Companies Act, 2013 and the rules made thereunder relating to registration of the company under section 7 of the Act and matters precedent or incidental thereto have been complied with. The said records have been properly prepared, signed by the required officers of the Company and maintained as per the relevant provisions of the Companies Act, 2013 and were found to be in order,

(iii) I have opened all the attachments to this form and have verified these to be as per requirements, complete and legible,

(iv) I further declare that I have personally visited the premises of the proposed registered office given in the form at the address mentioned herein above and verified that the said proposed registered office of the company will be functioning for the

business purposes of the company (wherever applicable in respect of the proposed registered office has been given).

(v) It is understood that I shall be liable for action under Section 448 of the Companies Act, 2013 for wrong certification, if any found at any stage."

From the above, it was noted that while certifying alleged SPICe Forms of the Companies, the Respondent had given a declaration that he had verified the particulars from the original/ certified copies and that he had physically verified the registered office(s) of the Companies concerned.

4.3 In the extant case, it was observed that the Respondent had facilitated incorporation of all four companies during the period of COVID lockdown and that with respect to issue as to whether he had relied upon original documents or certified copy of the documents while certifying SPICe form. He only stated that he had relied upon the documents provided by Mr. Prasad Nitturkar on behalf of the subscribers / directors. Moreover, the copy of documents brought on record by the Respondent in his defence (D-39 to D-65, D-124 to D-126, D-143 to D-145, D-205 to D-258, D-294 to D-346, D-384 to D-412) were observed to be neither authenticated nor signed by the subscribers / directors. From the information available on record, it was observed that that the Respondent had no contact with the subscribers / directors of the Company. It was noted that as per Rule 13 of the Companies (Incorporation) Rules, 2014, the Memorandum and Articles of Association of the Company should be signed by each subscriber to the memorandum in the presence of at least one witness who was the Respondent, in extant case and that there was nothing on record to show that the subscribers / directors had signed the MOA / AOA in presence of the Respondent who signed the SPICe+ AOA / MOA as witness to the said forms (D-79, D-116, D-150, D-159, D-188, D-197, D-286, D-367 & D-376). Instead he relied on Mr. Prasad to obtain all the details including mobile number, email ID, KYC documents and Aadhar OTPs of the directors. It was viewed by the Committee that the Respondent had blindly carried out the certification work presuming that all information being supplied by Mr. Prasad was true and correct. Such a presumption on the part of the Respondent while carrying out certification work for incorporation of four separate Companies was not expected from a professional. The professionals should refrain from taking such an assignment and should not bypass the firewalls of proper KYC, OTP verification, and other regulatory compliances prescribed under Companies Act and Rules framed thereunder.

4.4 As regards physical verification of premises, it was noted that the Respondent had himself admitted that he had not carried out the physical verification of premises even though he had certified the declaration under SPICE Plus form in this regard. Such certification was blindly done merely on the basis of documents provided by one Mr. Prasad Nitturkar without doing proper required due diligence in the matter. As regards the plea of lockdown during COVID period and restrictions on travel by the authorities, the Committee viewed that no such relaxation was given to the professionals to certify for the registered office address of the proposed Company without physical verification of the same during the said period. Hence, the said plea of the Respondent was not sustainable. Accordingly, it was viewed that the Respondent was grossly negligent not

only in failing to visit the registered office premises but also in verifying the documents / details submitted along with the incorporation forms certified by him. Accordingly, 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.

5. As regards the second leg of allegation that though NOC and utility bills were attached with incorporation form(s) but the Respondent had failed to verify the ownership papers/ authorisation documents from the owner of the property, the Committee noted that as per Rule 25(2) of Companies (Incorporation) Rules, 2014, there shall be attached to said Form, any of the following documents, namely:-

- (a) the registered document of the title of the premises of the registered office in the name of the company; or*
- (b) the notarized copy of lease or rent agreement in the name of the company along with a copy of rent paid receipt not older than one month;*
- (c) the authorization from the owner or authorized occupant of the premises along with proof of ownership or occupancy authorization, to use the premises by the company as its registered office; and*
- (d) the proof of evidence of any utility service like telephone, gas, electricity, etc. depicting the address of the premises in the name of the owner or document, as the case may be, which is not older than two months.*

From the above, it was noted that in case if the Company being incorporated neither own the premises nor had any lease agreement in its name, then it should possess the authority from the owner/authorised occupant of the premises along with proof of their ownership or occupancy authorisation, as the case may be. In the extant case, from the attachments made in the alleged form, it was noted that authority letter in favour of the alleged companies and utility bills were available on record. However, there was no proof of ownership or occupancy authorisation attached therein to show that NOC issuing individuals were owners or duly authorised occupants of the property.

Further, it was noted from documents available on record that there were copy of two Electricity bills, both showing address of the premises as "Jagadeesh S Patil Bharath S Kumar, #1207/343 & 1207/1/343/1, 9th Main, 7th Sector, Bengaluru". In case of Company, M/s. Fesolo Private Limited, address "1207/1/343/1, 9th Main, 7th Sector, Bengaluru" was given as registered office of the Company and in case of M/s. Solosime E-Commerce Private Limited, address "#1207/343, 9th Main, 7th Sector, Bengaluru" was given as registered office of the Company. On perusal of Electricity Bills (C-38 and C-84), it was noted that though these electricity bills contained the same address yet the same were for different account ID numbers and accordingly, the same indicated that both the bills were for two different space located under the same premises. However, it was also noted that, as per the Complainant, the aforesaid addresses were used by 6 companies as their registered office (C-15). Moreover, in view of the above facts and admission on the part of the Respondent that he failed to verify the premises of the subject Companies physically before certifying incorporation forms, it was noted that the Respondent had certified the particulars casually without verifying/ attaching proof of ownership or that of authorised occupants, as the case may be. Thus, it was viewed that the Respondent

acted without carrying out due diligence and was grossly negligent while performing his professional duties. Accordingly, the Respondent was also held **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 for this charge.

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. Piyush S Chhajed]
Member

Date: 3rd October, 2023
Place: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy
[Signature]
श्री नीलिका गुप्ता / CA. Nihika Gupta
सहायक निदेशक / Assistant Director
अनुशासनमयक निदेशालय / Discipline Officer
इंस्टीट्यूट ऑफ चार्टर्ड अकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आइसीएआई कानून भवन, बारा नगर, शाहदरा, दिल्ली-110002
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110002