



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

PR/PI/178/18-DD/202/18/DC/1488/2021

[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

[PR/PI/178/18-DD/202/18/DC/1488/2021]

In the matter of:

**Mr. Neeraj Sharma,
Sr. Vice President,
National Spot Exchange Limited (NSEL),
6th Floor, Chintamani Plaza,
Andheri Kurla Road, Andheri (East),
Mumbai – 400 069.**

.... Complainant

Versus

**CA. Gaurav Kumar Bedi (M.No.402858)
M/s Arora Bedi and Associates (FRN 012153C),
Chartered Accountants,
Govind Nagar, Near Ram Shyam Mandir
Saharanpur, Uttar Pradesh – 247 001.**

.... 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: 30th September, 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. Gaurav Kumar Bedi (M.No.402858)** (hereinafter referred to as the "Respondent") is **GUILTY** of Professional Misconduct falling within the meaning of Item (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.
2. That pursuant to the said Findings, an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication was addressed to him thereby granting opportunity of being heard in person / through video conferencing and to make representation before the Committee on 10th April 2024.

Shri Neeraj Sharma, Sr. Vice President, NSEL, Mumbai Vs CA. Gaurav Kumar Bedi (M.NO. 402858), Saharanpur



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3. The Committee noted that on the date of the hearing held on 10th April 2024, the Respondent was present in person and made his verbal representation on the Findings of the Disciplinary Committee, inter-alia, stating that the Company is not working right now but his client is connected with him. He had 20 years of unblemished professional career and that he had already suffered for 6 years. Thus, he requested the Committee to take a lenient view in the case. The Committee also noted that the Respondent in his written representation on the Findings of the Committee, inter-alia, stated as under:
- (i) With respect to the first charge: -
- a) The observations are technical in nature and there is no material effect on the financial statements so as to affect its "true and fair view".
- b) Considering the principle of substance over form, it is humbly requested that a lenient view be kindly taken for minor lapses which does not tantamount to 'Misconduct' as alleged in this charge.
- (ii) With respect to the second charge: -
- a) There is a slight deviation in compliance with the requirement, but the fact remains that the said deviation is not material in nature and at the same time it neither affects the user(s) of the Financial Statements substantially nor vitiates the true and fair view of the Financial Statements.
- (iii) With respect to the third charge: -
- a) Evidence to substantiate missing purchases of Rs 31.41 Crores in the name of M/s. RS Nagpal Traders Pvt. Ltd. (RSNTPL) are disputed.
- b) Alleged transactions of Rs 31.41 crores is disputed and not accepted by M/s. Shree Radhey Trading Co.(SRTC) as purchases of M/s. RS Nagpal Traders Pvt. Ltd. ('RSNTPL'). Thus, it is apparent that the Complainant on the one hand has not been able to establish the so-called figure of Rs 31.41 crores as purchases of M/s. RS Nagpal Traders Pvt. Ltd. (RSNTPL) through M/s. Shree Radhey Trading Co (SRTC) and on the other hand, denied and did not accept the figure of 54.21 Crores reflected as Purchases in the Financial Statements without any basis.
- (iv) The Respondent referred to the decision of the Disciplinary Committee in a similar complaint filed by the same Complainant against CA. PSC Nageswara Rao alleging that during the financial year 2013-14, SSPL (auditee company) failed to reflect transactions in the financial statements that it had allegedly traded in aggregate Rs.135.43 Crores turnover being Rs.77.70 Crores as BUY turnover and Rs. 57.73 Crores as SELL turnover on NSEL platform as client of M/s NCS Sugars Ltd (broker member of NSEL). In the said case, the Committee held the Respondent as Not Guilty on the ground that the broker concerned intervened in the matter and had stated that the contentious sales were disputed.
- (v) He has exercised reasonable care while carrying out his professional duties which may be in minor deviation to the standards of expectations of the Disciplinary Committee but, as held by Courts, mere failure to meet the expected standard of efficiency by a professional cannot be regarded as misconduct.



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4. Keeping in view the facts and circumstances of the case, material on record and representation of the Respondent before it, the Committee decided to reserve the decision on the quantum of punishment to be awarded to the Respondent in the instant case.
5. Thereafter, the Committee at its meeting held on 15th July 2024, 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. As regard the submission of the Respondent regarding comparing the instant case with an earlier decided case, the Committee is of the view that comparing two distinct disciplinary cases as 'eye to eye', is not warranted as each case is decided on merits on the basis of documents and submissions on record. After due consideration of all the facts, submissions and documents on record, the Committee arrived at its Findings holding the Respondent guilty in respect of the charges alleged against him in Form 'I'. The Committee also noted that the Respondent admitted his mistake with respect to the first and the second charge during the hearing as well as in his written submissions.
6. Keeping in view the facts and circumstances of the case, material on record including verbal and written representations on the Findings, the Committee noted as under:
 - (i) First Charge: As per Section 227 of the Companies Act, 1956, it was the duty of the auditor to report that whether, in his opinion and to the best of his information and according to the explanations given to him, the said accounts give the information as required by the Companies Act in the manner so required and give a true and fair view of the financial statements of the Company. Despite the violation of the mandatory requirements of disclosures as per revised Schedule VI of the Companies Act 1956 as pointed out in para 16.1 of the Findings, the Respondent remained silent and did not point out the same in his audit report. Also, the Respondent admitted his mistake in respect of the said charge, during the hearing as well as in his written submissions.
 - (ii) Second Charge: Companies (Auditor's Report) Order, 2003 [Issued in terms of Section 227(4A) of the Companies Act, 1956] was applicable to the Company for FY 2013-14. Accordingly, the Respondent was required to include a Statement on the matters as specified in Companies (Auditor's Report) Order, 2003 but he did not include the same by mentioning that the Companies (Auditor's Report) Order 2003 was not applicable to the Company. Also, the Respondent in his submissions had accepted his mistake and pleaded to take lenient view on the ground that the said mistake was technical error and does not affect true and fair position of the financial statements and does not constitute professional misconduct.
 - (iii) Third charge: The Complainant brought on record an e-mail dated 8th July 2013 from the director of the auditee Company to NSEL wherein the said director had mentioned M/s. RS Nagpal Traders Pvt. Ltd. (RSNTPL) as client of M/s. Shree Radhey Trading Co. (SRTC) with client id RSN. Thus, it also shows that the auditee Company had made the transactions through the NSEL. Further, the Respondent was involved in filing all returns and tax audit of the Company, still he failed to obtain evidence to find the nature of transactions taking place. Hence, the contention of the Respondent that there had been nothing on record to find out about the purchase transactions that took place through NSEL platform, was not tenable. The



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Respondent was required to perform audit procedures to an extent to obtain sufficient audit evidence and apply professional skepticism to find out the real nature of transactions, but he failed to do so.

- (iv) The Respondent adopted a casual approach while auditing the books of accounts of the Company as he failed to verify the records related to inventory and ensure compliance of Revised Schedule VI of the Companies Act 1956, Companies (Auditor's Report) Order 2003 and Accounting Standards (AS 9). Despite such irregularities in the financial statements of the Company, the Respondent gave a clean report confirming that the audited financial statements for FY 2013-14 were giving a true and fair view of the state of affairs of the Company. Thus, he was grossly negligent in performing his duties as an auditor and failed to place on records the facts that were required to be reported by him in his capacity as statutory auditor of the Company.

6.1 Hence, professional 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.

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

8. Thus, the Committee ordered that the name of CA. Gaurav Kumar Bedi (M.No. 402858), Saharanpur be removed from the Register of Members for a period of 01(One) Year and also imposed a Fine of Rs. 1,00,000/- (Rupees One Lakh only) upon him payable within a period of 60 days from the date of receipt of the Order. The punishment in the instant case shall run concurrently with the punishment awarded in Case no. PR/PI/177/18-DD/201/18/DC/1489/2021.

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

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

सीए श्रुति वर्ग / CA. Shrutu Barga
सहायक निदेशक / Assistant Director
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विहास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vistwas Nagar, Shahdara, Delhi-110032

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/PI/178/18-DD/202/18/DC/1488/2021

In the matter of:

Mr. Neeraj Sharma,
Sr. Vice President,
National Spot Exchange Limited (NSEL),
6th Floor, Chintamani Plaza,
Andheri Kurla Road, Andheri (East),
Mumbai - 400069

.... Complainant

Versus

CA. Gaurav Kumar Bedi (M.No.402858)
M/s Arora Bedi and Associates (FRN 012153C),
Chartered Accountants,
Govind Nagar, Near Ram Shyam Mandir
Saharanpur – 247 001
(Uttar Pradesh)

...Respondent

MEMBERS PRESENT:

CA. Ranjeet Kumar Agarwal, Presiding Officer (Through Video Conferencing Mode),
Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee (In person),
Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (In person),
CA. Sanjay Kumar Agarwal, Member (In person),

DATE OF FINAL HEARING : 28th November 2023
DATE OF DECISION TAKEN : 14th December 2023

PARTIES PRESENT

Complainant: Ms. Shubhra Singh, Authorized Representative (Through Video Conferencing Mode)

Counsel for Complainant: Mr. S. G. Gokhale, Advocate (Through Video Conferencing Mode)

Respondent : CA. Gaurav Kumar Bedi (Through Video Conferencing Mode)

Counsel for Respondent: CA. C.V. Sajan (Through Video Conferencing Mode)

BACKGROUND OF THE CASE:

1. The brief background of the case is that M/s. Shree Radhey Trading Company' (hereinafter referred to as the "**SRTC**") was a member broker on National Spot Exchange Limited (NSEL) and one among 22 defaulters. The Company, M/s. RS Nagpal Traders Pvt. Ltd. (hereinafter referred to as the '**RSNTPL**'/'**Company**') was a client company of SRTC and had traded on NSEL during F.Y. 2013-14 under the Code RSN. That the Respondent was the statutory auditor of RSNTPL for financial year 2013-14. As per the Complainant, the complaint has been filed considering the audited financial statements of RSNTPL downloaded from MCA 21 website for the FY 2013-14.

CHARGES IN BRIEF: -

2. The Committee noted that the charges against the Respondent are as under:-
 - i. That the Respondent neither qualified the audit report nor pointed out the infirmities in the preparation of financial statements of the Company which were not in consonance with Schedule III of the Companies Act, 2013.
 - ii. There was default in reporting under Companies (Auditor's Report) Order 2003. The Complainant alleged that the Respondent did not comply with the requirements of Companies (Auditor's Report) Order, 2003 about reporting on the issue of fraud on the Company or by the Company that took place during the year and reporting on inventory related to the confirmation of physical verification by the management, the adequacy of the procedures for physical verification of inventory, and the maintenance of adequate and records in this regard.
 - iii. Non-reporting of transactions carried out by RSNTPL through SRTC on NSEL platform which are reported to have not been recorded in the financial statements of RSNTPL. Further, other incidental expenses had not been recorded and the Company had failed to apply accounting standards which were not pointed out by the Respondent in his audit report.

3. The Committee noted that the Respondent in his reply at the stage of PFO had, inter-alia, mentioned as under:-
- i. That the management of the Company RSNTPL had never disclosed to him that they dealt in commodities through brokers or with NSEL.
 - ii. That RSNTPL presented its accounts to the Respondent for audit as a 'Trading' company involved in agriculture produce in bulk.
 - iii. That for the year 2013-14, purchases totalling Rs.43.03 Crores were made from a Company named M/s. Anand Rathi Commodities International Pvt. Ltd., and the commercial invoices issued served as the source documents for the purchase transactions. Sales, amounting to Rs.54.21 Crores, were made to various companies out of the stock purchased.
 - iv. That the unsold stock amounting to Rs.11.34 Crores in the balance sheet was duly certified as subjected to physical verification by the management and found matching with the books of account. There were no evidence in the records of the Company for any transactions of purchases with NSEL or with any of its brokers as alleged by the Complainant.
 - v. That audit evidence collected from the Company did not provide any information that the transactions entered by the Company originated on the NSEL platform.
 - vi. That only after receipt of the complaint, he got to know about the matter. When he enquired it from the Company, the management confirmed that there was no proceeding by any authority against their Company nor there had been any complaint against them. However, the Respondent had been able to get the information from other sources that Shree Radhey Trading Company (SRTC) which is alleged as member broker of NSEL, is a group entity of the family of the Company management. The Respondent mentioned that this fact was not known to him at the time of audit.
 - vii. That he was yet to receive a confirmation from the Company whether the purchase transactions of RSNTPL were sourced through NSEL platform with the intermediation of SRTC.
 - viii. That he was unable to comment on whether all or any of the purchase of Rs. 54.21 Crores recorded in the books of accounts of RSNTPL had any relation with NSEL or its broker SRTC.

- ix. According to the evidence provided during the audit, NSEL and SRTC were not in picture. It was also not clear to the Respondent as to how it was possible to have purchase bills from the supplier when the transactions were through NSEL.
- x. That it is also not clear as to whether the transactions through NSEL covered by a Contract note will have to be backed by additional invoices from supplier to buyer, and whether each contract can be matched with a supplier note invoice.
- xi. That since the Complainant had been unable to download the profit and loss account from the MCA website properly, due to this reason, the Complainant made allegation that the Company had not declared any purchase or sales in its accounts.
- xii. That he had no reason to accept the preposition that the Company was a client of SRTC.
- xiii. There was no deficiency in Accounting Policy or Notes to the Accounts of the Company. All the revenues were correctly recognized.
- xiv. That he had genuine apprehension that there was a deliberate attempt on the part of the management of the Company to keep certain facts away from him.
- xv. That the Respondent was not provided with any information about the existence of the bank account of the Company with HDFC as alleged by the Complainant.
- xvi. That the extant complaint was not a single enquiry that has been initiated against the auditee company so far.

4. The Director (Discipline), in his Prima Facie Opinion dated 1st June 2020, with respect to the allegations levelled against the Respondent, had observed as under:-

4.1 As regard the first charge related to violation of requirements of Schedule III of the Companies Act, 2013, it was noted by the Director (Discipline) that Schedule III is defined in Companies Act, 2013 which was applicable w.e.f. 01.04.2014 only and the financial statement in question relates to the FY 2013-14. Hence, in the extant matter, instead of Schedule III to the Companies Act, 2013, the

requirements of Revised Schedule to the Companies Act, 1956 would be applicable.

- 4.2 Accordingly, the discrepancies alleged were assessed considering the provisions of Revised Schedule VI to the Companies Act, 1956. It was observed that despite various non-compliances of said schedule of the Companies Act, 2013, the Respondent being the Statutory Auditor of the Company, failed to report about the same in his audit report. Hence, the Respondent was held prima facie **guilty** of professional misconduct falling within the meaning of Items (6) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.
- 4.3 With respect to the second charge, it was noted that the Companies (Auditor's Report) Order, 2003 was applicable on the Company for the FY 2013-14, however, the Respondent in his audit report had stated otherwise. Accordingly, the Respondent was held prima facie **guilty** for this charge of professional misconduct falling within the meaning of Items (7) and (8) of Part - I of the Second Schedule to the Chartered Accountants Act, 1949.
- 4.4 With respect to the third charge, it was noted that the ledger account of Shree Radhey Trading Co. (SRTC) had been classified as supplier in the books of RSNTPL. However, the Respondent had never mentioned this fact to the Directorate at any stage. Although no purchase has been made from the supplier SRTC during the year 2013-14, rather an advance of Rs. 40 lakhs was made to it on 16.08.2013 and Rs. 5 lakhs on 26.08.2013. The Complainant had informed that Shree Radhey Trading Company' (SRTC) was declared as defaulter member/broker on NSEL as per the rules of NSEL vide its Circular reference no. NSEL/legal2013/074 dated 28th August 2013 and criminal proceedings had also been initiated against the SRTC and the audit report of RSNTPL was signed on 03.09.2014. The Complainant had submitted an e-mail dated 8th July 2013 received from the Director of RSNTPL to NSEL, wherein the Director Shri Sunny Nagpal had mentioned RS Nagpal Traders Pvt. Ltd. (RSNTPL) as client of Shree Radhey Trading Co. (SRTC) with client id 'RST'. It is further noted that the Company was registered on 8th May 2013, and even though the Respondent

was involved in filing all returns of the Company and tax audit, still the Respondent had failed to obtain sufficient evidence to find the nature of transactions actually taking place. Also, the auditor did not perform audit procedures substantively as prescribed under various Standards of Auditing and did not point out the deviation and non-compliances of the accounting standards in the preparation of financial statements. Despite all irregularities in the financial statements of the Company (RSNTPL), the Respondent issued a clean report. Accordingly, the Respondent was held prima facie **guilty** under this charge for professional misconduct falling within the meaning of Items (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

5. Accordingly, the 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, held the Respondent prima-facie Guilty of professional misconduct falling within the meaning of Items (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said items in the Schedule to the Act states as under:-

Item (6) of Part I of 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 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 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."

SUBMISSIONS OF THE RESPONDENT ON PRIMA FACIE OPINION: -

6. The Respondent in his submissions had, inter-alia, submitted as under:-
- a. With respect to the first charge related to violation of requirement of Revised Schedule VI to the Companies Act, 1956, the Respondent stated that due to the low profile of the company, he had not invested much time into the examination of the presentation of the financial statements. Accordingly, the Respondent expressed deep regret over the unintentional oversight in this respect. However, he also stated that the errors in the presentation of the financial statements do not make the financial statements obscure or misleading in any manner. Accordingly, the Respondent requested that he may kindly be pardoned for the errors observed in the presentation of the financial statements.
 - b. With respect to the second charge related to non-compliance of the requirement of CARO, 2003, the Respondent stated that, although there were some errors, they were minor and rectifiable within the financial statements themselves. These errors were deemed additional information available in the records and, as such, did not warrant any audit qualification. So, the omission was an oversight of the management, which the Respondent did not pay attention to, however, these omissions did not constitute material misstatements at all. The Respondent admitted that he had committed an unintentional error in this case.
 - c. With respect to the third charge regarding non-recording of purchases of Rs 31.41 crores, incidental expenses, revenue recognition etc., the Respondent, apart from reiterating his submissions as made before the Director

- (Discipline) at prima facie stage, stated that from the documents and records of the Company presented before him for audit, he was unable to get any sense that the trading of the Company had been through the Commodity Exchange NSEL or through any broker. The Respondent stated that the purchase of Rs.54.21 Crores recorded in the financial statements may be inclusive of the purchases alleged to have been carried through broker SRTC in the NSEL amounted to Rs 31.41 Crores. But as an auditor, he had no such knowledge, because of the absence of distinction in the documentation.
- d. That the opinion of the Director (Discipline) in paragraph 10.3.2 of the PFO are misconceived as the observations in sub-paras do not provide any hint that they would have helped the Respondent to form any view that the trades were through NSEL platform.
 - e. The Respondent stated that only because of the investigations conducted in the background of complaint by NSEL, the Director (Discipline) made observations in paragraph 10.3.4 of the PFO. The Respondent did not suspect the trading activities of the Company in any manner at the time of audit. So, it was not possible to view the matters in the manner in which the Director (Discipline) had viewed for disposing the complaint.
 - f. That in the background of the allegations by NSEL and based on information available that the promoters of the Company have been subjected to investigation by the authorities, the Respondent, at present, tends to agree with the view of Director (Discipline) that *"transactions had taken place between the Company and NSEL through the broker member SRTC which the management of the auditee Company did not disclose"*. But the Respondent was not able to form any such view at the time of audit.
 - g. The Director (Discipline) should be required to furnish conclusive evidence regarding the "audit procedures" that the Respondent is purported to have "failed to do" in the circumstances of the case. Additionally, strict proof should be provided for instances of "alleged non-compliance with Accounting Standards" as mentioned in paragraph 10.3.5 of the PFO.

BRIEF FACTS OF THE PROCEEDINGS: -

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

S.No.	Date	Status of Hearing
1.	31.10.2022	Adjourned at the request of Respondent
2.	22.06.2023	Part Heard and Adjourned
3.	11.07.2023	Part Heard and Adjourned
4.	23.08.2023	Part Heard and Adjourned
5.	17.10.2023	Deferred due to paucity of time
6.	31.10.2023	Deferred due to paucity of time and on the request of both the parties.
7.	28.11.2023	Concluded and Judgement Reserved
8.	14.12.2023	Final Decision taken in the case.

8. On the day of first hearing held on 31st October 2022, the Committee noted that the Complainant was not present and the Respondent vide his e-mail dated 18.10.2022 had sought adjournment on account of the last date of filing Income Tax Returns for audit cases and company cases under the Income Tax Act, 1961. Considering the absence of the Complainant, the Committee acceded to the request of the Respondent and decided to adjourn the matter to a future date.
9. On the day of second hearing held on 22nd June 2023, the Committee noted that Ms. Shubhra Singh, Legal head of the Company, was present on behalf of the Complainant Company through Video Conferencing Mode. The Respondent along with his counsel, CA. C.V. Sajan was present through Video Conferencing Mode. Both parties, i.e., the Complainant and the Respondent were administered on Oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges. On the same, the Respondent replied in the affirmative and pleaded Not Guilty to the charges levelled against him. When the Respondent sought time to file his submissions in the matter, the Committee allowed the Respondent to file the same within 15 days of hearing. Thereafter,

looking into the fact that this was the first effective hearing, the Committee decided to adjourn the hearing to a future date. With this, the hearing in the matter was partly heard and adjourned.

10. On the day of third hearing held on 11th July 2023, the Committee noted that Ms. Shubhra Singh, Legal Head of the Complainant Company, alongwith Counsel Shri S.G. Gokhale, Advocate, were present on behalf of the Complainant through Video Conferencing mode. The Respondent along with his Counsel CA. C.V. Sajan were present through Video Conferencing mode. The Committee noted that the Respondent accepted his mistake for charges no. 1 and 2, accordingly, the Committee asked him to make his submissions on Charge no. 3.
- 10.1 The Respondent in his submissions had, inter-alia, mentioned as under:-
- a. That it was very difficult for him to find out that the transactions that were transacted by the Company were routed through NSEL when no such fact was mentioned on the documents produced for audit.
 - b. That there was no linking from anywhere that the said transactions are routed through a stock exchange.
 - c. That the management never disclosed SRTC as a broker or related party to him.
 - d. That the allegation specifies the absence of 857 transactions that occurred in July. This implies that transactions in April, May, and June have been matched, found, and settled, with only the July transactions being deemed objectionable.
 - e. That NSEL is filing unnecessary complaints against all the Chartered Accountants after the scam.
 - f. That he had issued a disclaimer of opinion in his report still the complaint had been filed against him.
 - g. That all the transactions of sales and purchases had been recorded in VAT report with the names of every supplier and customer.
 - h. That one Company was buying goods and selling to another Company, and they are selling back to them. However, the books of accounts do not show any fraud as both sales and purchases transactions get accounted for.

- i. That the Respondent drew attention of the Committee to a bill from Anand Rathi to the Company and stated that this is a normal bill, and further stated that from the same, it is difficult to figure out whether the said transaction is normal sales-purchase transaction or NSEL transaction.

10.2 The Committee noted that the Respondent in this matter had submitted his further written statement on the date of the meeting i.e., 11th July 2023. The Counsel for the Complainant in this regard sought time for their further reply on the written statement of the Respondent. The Committee acceded to the request of the Complainant's Counsel and directed him to submit submissions to the Committee with a copy of the same to the Respondent. Thereafter, the Committee decided to adjourn the hearing to a future date. With this, the hearing in the matter was partly heard and adjourned.

11. On the day of fourth hearing held on 23rd August 2023, the Committee noted that Ms. Shubhra Singh, Legal Head of the Complainant Company, along with Counsel Shri S.G. Gokhale, Advocate, were present on behalf of the Complainant through Video Conferencing mode. The Committee further noted that the Respondent along with Counsel CA. C.V. Sajan were present through Video Conferencing mode.

11.1 Thereafter, the Respondent was asked to make his submissions. The Respondent, besides reiterating his earlier submissions, in his submissions had, inter-alia, mentioned as under:

- a. That he was presented a profit and loss account of the Company wherein total purchases of Rs.54 crores was shown, however, the Complainant is still stuck to the point that the purchases of Rs.31.40 crores are missing from Profit and loss account.
- b. That the allegation is without any substantive evidence.
- c. That he wanted to cross examine the Complainant to understand as to what exactly their points are.

- 11.2 Thereafter, the Complainant was asked to submit his submissions. The Complainant in his submissions had inter-alia mentioned as under:
- a. That even if it is presumed that the Respondent was not aware of the transaction with NSEL, there were still several facts apparent in the financial statements that should have aroused suspicion in the mind of the Respondent while conducting the audit. The Respondent should have performed audit procedures to the extent of obtaining sufficient evidence to arrive at an opinion on the financial statements of the Company.
 - b. That it was in the public domain that a fraud of Rs. 5600 crore had occurred in NSEL, and the Economic offence wing has started investigating it.
 - c. The Respondent's own documents show that a purchase of Rs. 54.41 crore was made from M/s. Anand Rathi Commodities International Pvt. Ltd itself, but the Respondent is defending that the missing purchase of Rs. 31.40 crore is included in it.
- 11.3 The Committee posed certain questions to both the parties to understand the issue involved and the role of the Respondent in the case. The Counsel for the Respondent submitted that he wanted to examine the Complainant. On the same, the Committee asked him to submit his questionnaire/ queries to the Committee and the Complainant within 15 days of hearing. The Complainant was also directed to make his submissions within 15 days of receipt of the queries/ questionnaires with a copy to the Respondent. With this, the hearing in the matter was partly heard and adjourned.
12. On the day of fifth hearing held on 17th October 2023, the hearing in the matter was deferred due to paucity of time.
13. On the day of sixth hearing held on 31st October 2023, the Committee noted that Ms. Shubhra Singh, Legal Head of the Complainant Company, alongwith Counsel Shri S.G. Gokhale, Advocate, were present on behalf of the Complainant Company through Video Conferencing mode. The Respondent's Counsel, CA. C.V. Sajan was present through Video Conferencing mode. The Committee noted that, in accordance with the directions given during the last hearing held on 23.08.2023, the Respondent submitted a questionnaire, and the

Complainant provided their response accordingly. The Committee noted that the questionnaire submitted by the Respondent and the corresponding reply given by the Complainant are as under:-

S.No.	Question by the Respondent	Submissions by the Complainant
1.	Have the Complainant filed any complaint against the Auditor of Shree Radhey Trading Co (SRTC), the broker member who is allegedly the defaulter of NSEL according to the complaint ?	No complaint is filed before ICAI against Auditor of SRTC. SRTC is a sole proprietorship concern of Ramesh Nagpal. SRTC indulged into circular trading on the Exchange platform utilising both sister concerns. Their audit reports were scrutinized and hence, complaints were filed against the auditors of these two clients of SRTC
2.	Does the Complainant have any evidence of seizure of the records of the NSEL by investigating agencies?	It is specifically mentioned in panchnama dated 30 th September 2013 that the document mentioned therein are seized.
3.	Does the Complainant have any evidence to show that M/s. R S Nagpal Traders Pvt. Ltd. (RSNTPL) placed orders for the purchases of Rs. 31.41 crores allegedly made through Trading Member NSEL?	The order is placed by a member only. In the alleged matter, it was by SRTC by giving the UCC Code of its client. The UCC Code in the instant case is RSNTPL. In this regard, the Complainant referred to the copy of Trade File derived from the records of NSEL.

4.	What were the goods allegedly purchased by RSNTPL, for Rs.31.41 Crores and still allegedly not accounted in its books of accounts?	While referring the Annexure 1 as annexed to the complaint, the Complainant submitted that in the column titled "Commodity Contract", abbreviations of goods are given wherein "PPRSRNPR25" stands for "Black Pepper" and "RCHLYS14H2S" stands for "Red Chilly".
5.	Does the Complainant have any evidence that RSNTPL received delivery of stock against the alleged purchases of Rs 31.41 Crores?	There was no movement of commodities in as much as the commodities come back to the selling member under T+2 Contract.
6.	What are the details of the Electronic Warehousing Receipt issued for transfer of possession of underlying stock involved in the alleged unrecorded purchases of Rs 31.41 Crores?	RSNTPL has purchased the commodities through SRTC under T+25 Contract. The buyers under T+2 who became sellers under T+25 Contract had not issued invoices because of default in payment by RSNTPL as a buyer. In the same way, the Allocation letters in respect of the purchased commodities were also not made/ issued by NSEL.
7.	Were there purchases by RSNTPL through NSEL, before or after, other than the alleged unrecorded purchases of Rs 31.41 Crores?	No
8.	What are the details of invoices generated from NSEL system evidencing the	NSEL does not generate the invoices. The invoices are generated by Seller. The Invoices are routed through NSEL.

	alleged purchases of Rs 31.41 Crores issued in favour of RSNTPL?	RSNTPL has purchased the commodities through SRTC under T+25 Contract. The buyers under T+2 who became sellers under T+25 Contract had not issued invoices because of default in payment by RSNTPL as a buyer.
9.	Does the Complainant have any evidence about who were the suppliers of the alleged unrecorded purchase of RSNTPL of Rs 31.41 crores ?	Supplier was M/s. Suvaity Trading Company Pvt. Ltd. (STCPL). The designated warehouse where the commodities had been stored was Shri Krishan Cold Storage and Foods which had been under the control of Ramesh Nagpal, and he had confirmed the delivery of the commodities to the said warehouse.
10.	Does the Complainant have any evidence of VAT levied towards the alleged supply of goods to RSNTPL for which, as alleged buyer RSNTPL is entitled for Input Credit?	The Complainant referred to answer to Question No.8
11.	Does the Complainant have evidence from the accounts of SRTC that the alleged purchase of RSNTPL of Rs 31.41 Crores was reflected as payable by SRTC towards NSEL?	The Complainant stated that the Respondent is not privy to this information.

13.1 During the hearing, the Counsel(s) for both the Complainant and the Respondent requested for adjournment. The Committee, keeping in view the said request and due to time constraints, decided to adjourn the hearing.

14. On the day of seventh and final hearing held on 28th November 2023, the Committee noted that Ms. Shubhra Singh, Legal Head of the Complainant Company, alongwith Shri S.G. Gokhale, Advocate, were present on behalf of the Complainant Company through Video Conferencing mode. The Committee further noted that the Respondent along with Counsel CA. C.V. Sajan were present through Video Conferencing mode.
- 14.1 Thereafter, the Complainant was asked to submit his submission. The Complainant in his submissions, inter-alia, mentioned as under:
- a. That as per the directions of the Committee, they had already submitted replies to the various questions raised by the Respondent.
 - b. That they had explained the procedures adopted by NSEL with respect to settling transactions.
 - c. That SRTC, a member of NSEL, sold the goods in July for Rs 31.40 crore and got the payment and bought them back.
 - d. That a payment crisis had occurred in July 2013 in NSEL, due to which NSEL had appointed authorities to check whether the commodities were physically available in stock or not, and it was found that the stock was not available physically.
 - e. That the financial statement does not show expenses commensurate with the amount of the sale and purchase.
 - f. That M/s. Anand Rathi Commodities Ltd. had purchased stock from the Company in July, 2013, however, it was shown as a creditor in March 2014 which means that payment was not made till March, 2014.
 - g. That he had submitted his charges referring to the paras of PFO.
 - h. That the Respondent had not taken any confirmation from SRTC about the status of advances to it.
 - i. That the Complainant Company had not filed any complaint against the auditor of SRTC since SRTC is a proprietary concern.
 - j. That on the date of transaction, the NSEL was regulated by SEBI (earlier regulated by Forward Market Commission which later merged to SEBI).

- 14.2** When the Respondent was asked to make his submissions, he had, inter-alia, submitted as under:-
- a. That although he had accepted his mistake for charges No. 1 and 2, however, the said mistake cannot be construed as professional misconduct so it should be taken leniently.
 - b. That the purchases and sales disclosed in the financial statements were duly matched with the VAT returns.
 - c. That there was no proof to show that RSNTPL had placed an order with SRTC.
 - d. That the Complainant had not provided any answer to his question as to whether there is any evidence that RSNTPL received the delivery of stocks against the alleged purchase.
 - e. That an affidavit regarding sales and purchase transactions by RSNTPL was given by the director of the Company to him.
 - f. That NSEL was allowed to do one day forward contract not 25 days contract.
- 14.3** The Committee posed certain questions to both parties to understand the issue involved and the role of the Respondent in the case. The Committee noted that the director of the Company had submitted an affidavit wherein he had, inter-alia, mentioned as under:
- a. That his name is Mr. Sunny Nagpal, director of M/s R. S. Nagpal Traders Pvt. Ltd. That the Company was formed exclusively for the purpose of wholesale trading in assorted commodities and to make profits from market price fluctuations.
 - b. That most of the trading activities of the Company was conducted on NSEL, through a trading member, M/s Shree Radhey Trading Company, however, the company management had not disclosed this operating mechanism of its trading activities with the auditor, CA. Gaurav Bedi (the Respondent), as it was not felt an essential information to be shared with the auditor, being a matter of operations.

- c. That there was no difference in documentation of sales and purchases to indicate that whether those sales/purchases were carried through NSEL or through conventional offline purchase/sales transactions. Therefore, the auditor would not be able to identify the transactions carried through NSEL platform from the records provided to them.
- d. That there were certain disputes between SRTC and NSEL, and it is a matter of litigation. However, RSNTPL is not a party to this dispute, nor the Company had shared this information with the auditor of RSNTPL. There have been no claims against RSNTPL by NSEL or any authorities.
- e. The evidence of alleged missing purchases of Rs 31.41 crores in the name of RSNTPL had been disputed by the SRTC and accordingly, the allegation of non-recording of purchases is baseless.
- f. That most of the trading members of NSEL disputed the genuineness and validity of transactions claimed to have been recorded in NSEL and disputed the demands raised by NSEL upon them.
- g. The motive of NSEL behind the allegation against the auditors of its clients is to create self-serving evidence through ICAI by obtaining verdicts that the accounts of its clients were wrong, in order to use them in courts to counter the disputes raised by trading members against NSEL.

14.4 After considering the same, the Committee directed the Complainant to submit his responses to the latest submissions made by the Respondent via the affidavit dated 24th November 2023. On the same, the Complainant's Counsel denied receipt of the affidavit. Thereafter, the Committee gave directions to the Respondent to submit a copy of affidavit to the Complainant. The Committee further directed both the parties to submit additional submissions, if any, in next 15 days with copy to each other.

14.5 Thereafter, the Committee, looking into the Respondent's submissions against the charges levelled, recorded his plea and accordingly concluded the hearing by reserving its judgment.

15. Thereafter, the matter was placed before the Disciplinary Committee in its meeting held on 14th December, 2023 wherein the same members, who heard

the case earlier, were present for consideration of the facts and arriving at a decision by the Committee. The Committee noted pursuant to its direction given in the hearing held on 28th November 2023, the Respondent has given his submissions wherein he had, inter-alia, mentioned as under:-

- a. The Respondent reiterated that despite the errors as mentioned in charge no.1 were apparent, they did not constitute professional misconduct.
- b. With respect to the error mentioned in charge no.2, the Respondent admitted the omission and stated that the same was technical omission, and accordingly, may be viewed leniently.
- c. That the accounts of the Company audited by him were complete in all respects with recording of actual purchases, sales, inventory transactions, expenses, bank transactions and so on. The allegation of omitted transactions was baseless because the Company had not transacted any such transactions according to its records, nor had acknowledged so.
- d. That according to the audited accounts of the Companies i.e., RSNTPL and STCPL, both had recorded sales and purchases representing trading activities for amounts much more than the alleged missing transactions according to its records and had duly complied with the VAT law by filing in their VAT Returns.
- e. The alleged transactions were those which the NSEL claimed as happened but disputed by the Trading Member as having not happened.
- f. That the net effect of these alleged missing transactions was not material to the overall liability due to the offsetting effect of the purchases and sales.
- g. That NSEL had no evidence that the companies concerned had placed orders for the alleged missing sales or purchases.
- h. That on perusal of the purchase invoice, it cannot be ascertained that it was an invoice from NSEL based online trading.

15.2 The Committee further noted that the Complainant has also given his submissions wherein he, inter-alia, mentioned as under: -

- a. That the affidavit produced by the director of the Company cannot be relied upon without cross examination.

- b. That it is brought on record by the Complainant in his letter dt. 28th September 2023 that he has got the Decree dated 04.10.2021 from Hon'ble Bombay High Court against SRTC and the same is under execution before the Hon'ble Supreme Court. However, it is falsely claimed by the Respondent in the affidavit that SRTC has raised higher counter claims and matter is under litigation.
- c. That Mr. Sunny Nagpal who had filed an affidavit as director on behalf of RSNTPL is the son of Mr. Ramesh Nagpal, sole proprietor of SRTC (Member), and in the proceedings before the Hon'ble Bombay High Court, Mr. Sunny Nagpal had filed affidavit on behalf of SRTC (Member) as a constituted Attorney of SRTC. Since, Mr. Sunny Nagpal was managing business of SRTC along with his father, Mr. Ramesh Nagpal and had siphoned off funds, he was summoned in proceedings before the Enforcement Directorate and he also provided his Statement to the Enforcement Directorate. The above facts clearly establishes that RSNTPL was the sister concern of SRTC (Member) and the affidavit of Mr. Sunny Nagpal was filed to mislead the Disciplinary Committee.

15.3 Accordingly, keeping in view the facts and circumstances of the case, the material on record and the submissions of the parties, the Committee passed its judgment.

FINDINGS OF THE COMMITTEE: -

16. The Committee noted that the first charge is that that the Respondent had neither qualified the audit report nor drawn attention to the infirmities in the preparation of financial statements of the Company which was not in consonance with Schedule III of the Companies Act, 2013. In this regard, the Committee agreed with the observation of the Director (Discipline) that in the extant matter, instead of Schedule III to the Companies Act, 2013, the requirements of Revised Schedule to the Companies Act, 1956 would be applicable. The Committee also noted that the Respondent has admitted that presentation and disclosures as required in terms of the requirement of Schedule VI to the Companies Act, 1956, were not given in the financial statement of the Company for the financial year

2013-14. However, the Respondent also argued that his failure to report the non-compliance of Schedule VI to the Companies Act, 1956 in his audit report does not amount to professional misconduct on his part as the omissions do not constitute material misstatement at all.

16.1 The Committee observed that the following lapses were found in the presentation of financial statements of the Company, which the Respondent as an auditor failed to point out in his audit report :-

- a. No detail of **type of shares** such as equity or preference, no detail of authorized, paid up and subscribed share capital, no detail of any change in share capital during the year and even the value per share was not disclosed. Only the amount of Rs.61 lakh was shown as share capital at the face of the financial statements as well as in the Schedule / Note-1 attached to the financial statements. The non-disclosures of above information / details were violation of note 6 (A) of General Instruction for preparation of Balance Sheet of Part I of Revised Schedule VI to the Companies Act, 1956.
- b. In respect of Long-Term borrowing as shown in the financial statements of the Company, it is observed that an amount of Rs.1,98,89,008.66 was shown as Long-Term borrowing in the financial statements. However, classification of Long-Term borrowings as required in terms of requirements of Schedule VI into Bonds/Debentures/ Term Loan/ Deferred payment liabilities/ deposit/ loan and advances from related parties etc. was not given in the financial statements or any schedules attached to it. Even the name of the party was mentioned. The Committee noted that the same was violation of the requirements of Note 6 (C) of General Instruction for preparation of Balance Sheet of Part I of Revised Schedule VI to the Companies Act, 1956.
- c. Other Long-Term liabilities of Rs.15.40 lakhs were shown as 'Others' without providing any of the details of Trade payables or others which was required to be given as per Note 6 (D) of General Instruction for preparation of Balance Sheet of Part I of Revised Schedule VI to the Companies Act, 1956.
- d. With respect to the Reserve and Surplus, the figure on the face of the Balance Sheet does not correspond with the figure in the relevant schedule.

The amount of Reserve and Surplus was Rs. 41,521.44, while the figure under the name of 'Other Reserves' in schedule was Rs. (12,500), representing a negative amount. The actual profit before Depreciation and Tax noted from Director's report was Rs. 54021.44. Hence, clear picture is not depicted.

- e. Trade Payables and Trade Receivable were shown in the financial statements without any single details given in the Schedules / notes – 5 and 9 attached to it. The same was in violation of the requirements of Note 6 (D) and Note 6(P) of General Instruction for preparation of Balance Sheet of Part I of Revised Schedule VI to the Companies Act, 1956.
- f. Long Term Loan and Advances of Rs.15 lakhs in the financial statements of the Company were shown as "Other Loans and Advances" in its Schedule / Note – 8 without specifying its nature and without classification whether these were secured / unsecured. Hence, the same was in violation of requirement of Note 6(L) of General Instruction for preparation of Balance Sheet of Part I of Revised Schedule VI to the Companies Act, 1956.
- g. Under the head short term provision, nature of provisions was not specified which was in violation of the requirement of Note 6 (H) of General Instruction for preparation of Balance Sheet of Part I of Revised Schedule VI to the Companies Act, 1956.
- h. Under the head Current assets, nature of other current assets not specified which was in violation of Note 6 (S) of General Instruction for preparation of Balance Sheet of Part I of Revised Schedule

16.2 The Committee noted that as regard the preparation and presentation of financial statements of a Company, Section 211 of the Companies Act, 1956 stated as under:-

"211. FORM AND CONTENTS OF BALANCE SHEET AND PROFIT AND LOSS ACCOUNT (1)

Every balance sheet of a company shall give a true and fair view of the state of affairs of the company as at the end of the financial year and shall, subject to the provisions of this section, be in the form set out in Part I of Schedule VI, or as near thereto as

circumstances admit or in such other form as may be approved by the Central Government either generally or in any particular case; and in preparing the balance sheet due regard shall be had, as far as may be, to the general instructions for preparation of balance sheet under the heading "Notes" at the end of that Part :”

- 16.3 From the above, the Committee noted that the requirements of the Schedule VI to the Companies Act, 1956 was mandatorily required to be followed by the Company while preparing its financial statements for the financial year 2013-14. However, it is noted that various disclosure / details as required in terms of the aforesaid Schedule VI were not given by the Company in its financial statements for the financial year 2013-14.
- 16.4 The Committee further noted that as per Section 227 of the Companies Act, 1956, it was the duty of the auditor to report that whether, in his opinion and to the best of his information and according to the explanations given to him, the said accounts give the information required by the Companies Act in the manner so required and give a true and fair view of the financial statements of the Company. Despite the violation of aforesaid mandatory requirements of disclosures, the Respondent remained silent and did not point out the same in his audit report. Further, the Respondent admitted his mistake in respect of above charge.
- 16.5 In view of the above, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Items (6) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.
17. The Committee noted that the second charge is that the Respondent had failed to comply with the reporting requirement of the Companies (Auditor's Report) Order, 2003.
- 17.1 The Committee noted that the Respondent in his submissions had accepted his mistake and pleaded to take lenient view on the grounds that the said mistake were technical errors and does not affect true and fair position of the financial statement and does not constitute professional misconduct.

17.2 In respect of above charge, the Committee observed that the Respondent in his audit report had mentioned that his audit report did not include a statement on the matters specified in paragraph 4 of the Companies (Auditor's Report) Order, 2003 as the said order was not applicable to the Company. The Respondent in his audit report mentioned as under: -

"This report doesn't include a statement on the matters specified in paragraph 4 of the Companies (Auditor's Report) Order, 2003 issued by the department of Companies Affairs, in terms of Section 227(4A) of the Companies Act, 1956 since in our opinion and according to the information and explanation given to us, said order is not applicable to the Company".

17.3 In this regard, the Committee noted that Companies (Auditor's Report) Order, 2003 [Issued in terms of Section 227(4A) of the Companies Act, 1956] was applicable on the Company. Accordingly, the Respondent was required to include a statement on the matters as specified in CARO, 2003 but he did not include the same by mentioning that the CARO 2003 was not applicable to the Company. Further, the Respondent on this charge had also accepted his guilt. Accordingly, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Items (7) and (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

18 The Committee noted that the third charge against the Respondent was related to non-reporting of transactions carried out by RSNTPL through SRTC on NSEL platform. Further, other incidental expenses had not been recorded and the Company had failed to apply accounting standards which were not pointed out by the Respondent in his audit report.

18.1 The Committee noted that the Company had made purchase of around Rs.52.29 crores from M/s. Anand Rathi Commodities International Pvt. Ltd. in the financial year 2013-14. It was also noted that the Complainant had stated that during the

said financial year, the Company dealt with the Complainant i.e., NSEL for transactions amounting to Rs.31.41 crore as purchase turnover under the code RSN, as associate concern of SRTC. However, the said purchase was not shown in the Profit and Loss Account of the Company. In this regard, the Respondent stated that the Company had not disclosed anything about the purchase transactions took place through NSEL platform. The Respondent in support of his claim, brought on record an affidavit of the Director of the Company wherein the director submitted that out of total purchase of Rs.54.21 crores, Rs.49.81 crore represented purchase through the NSEL platform, and the Company had not shared the said information with the Respondent.

- 18.2** On perusal of the ledger account of HDFC bank, the Committee noted that the Company had made the payments of Rs. 45 lakhs to SRTC (trading member) during the financial year 2013-14, however, as per the financial statements of the Company, no transaction had been made with SRTC during the financial year 2013-14, and the Respondent did not seem to raise any concerns on the same.
- 18.3** The Committee also noted that the Company had made payments as advance to certain parties such as M/s. Shri Krishna Trading Company, M/s. Sai Durga Traders Pvt. Ltd., M/s. Harsha Traders, etc. and shown them under the head 'Sundry Debtors'. There was no clarity as to why the payments were made to these parties without any business transactions. Moreover, the substantial purchases were made from one party and no amount was paid against that purchase till the closure of the financial year. The above information should have made the Respondent suspicious about the nature of the transactions.
- 18.4** Therefore, the Respondent was required to apply and perform adequate audit procedures to confirm the nature of transactions that took place with them which would have helped the Respondent to find real nature of these payments and draw proper conclusion.
- 18.5** The Committee noted that the Complainant had brought on record the details of trading of buying and selling done by the auditee Company on NSEL platform on

different dates during the financial year 2013-14 which shows that the auditee Company had done the trading through the platform of NSEL with client id as RSN, and its trading member was SRTC.

- 18.6 The Committee noted that the Complainant had brought on record an e-mail dated 8th July 2013 from the director of the auditee Company to NSEL wherein the said director had mentioned RSNTPL as client of SRTC with client id RSN. Thus, it also shows that the auditee Company had made the transactions through the NSEL. Further, the Respondent was involved in filing all returns and tax audit of the Company, still he failed to obtain evidence to find the nature of transactions taking place. Hence, the contention of the Respondent that there had been nothing on record to find out about the purchase transactions took place through NSEL platform, was not tenable. The Committee also observed that the Respondent was required to perform audit procedures to an extent to obtain sufficient audit evidence and apply professional skepticism to find out the real nature of transactions but he failed to do so.
- 18.7 In addition to above, the Respondent failed to point out in his audit report that the Company had not applied accounting standards as the same was evident from the fact that disclosures as required in terms of the Accounting Standards were not given in the financial statements and notes attached to it. The Committee noted that the Respondent had adopted casual approach while auditing the books of accounts of the Company as he failed to verify the record related to inventory and ensure compliance of Schedule VI, CARO 2003 and accounting standards. Despite such irregularities in the financial statements of the Company, the Respondent gave a clean report confirming that the audited financial statements for FY 2013-14 were giving a true and fair view of the state of affairs of the Company. Thus, he was grossly negligent in performing his duties as an auditor and missed to place on records the facts that were required to be reported by him in his capacity as statutory auditor of the Company. Accordingly, the Respondent is held **guilty** under this charge for professional misconduct falling within the meaning of Items (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

CONCLUSION

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

Sd/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

Sd/-

(MRS. RANI NAIR, I.R.S. RETD.)
GOVERNMENT NOMINEE

Sd/-

(SHRI ARUN KUMAR, I.A.S, RETD.)
GOVERNMENT NOMINEE

Sd/-

(CA. SANJAY KUMAR AGARWAL)
MEMBER

DATE:07/02/2024

PLACE:NEW DELHI

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Certified to be true copy /
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उप सचिव / Deputy Secretary
अनुशासनिक निर्देशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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