

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – IV (2024-2025)]

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

Findings under Rule 18(17) read with Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

File No.:- [PR/G/286/2022/DD/201/2022/DC/1707/2023]

In the matter of:

**Registrar of Companies, NCT of Delhi & Haryana,
Ministry of Corporate Affairs,
Through Smt. Kamna Sharma,
Deputy Registrar of Companies,
NCT of Delhi & Haryana,
4th Floor, IFCI Tower,
61, Nehru Place
New Delhi -110019**

..... Complainant

Versus

**CA. Adarsh Bhatia (M. No.084384),
M/s. Lov Bhatia & Associates.,
C-2/258,
Janak Puri
New Delhi- 110058**

..... Respondent

MEMBERS PRESENT:

**CA. Ranjeet Kumar Agarwal, Presiding Officer (in person)
Shri Jiwesh Nandan, I.A.S (Retd), Govt. Nominee (in person)
Ms Dakshita Das, I.R.A.S. (Retd.), Government Nominee (through VC)
CA. Mangesh P. Kinare, Member (in person)
CA. Abhay Chhajed, Member (through VC)**

DATE OF FINAL HEARING : 17th May 2024

PARTIES PRESENT:

Complainant : Mr. Gaurav, Dy. ROC Delhi (AR of the Complainant)(Through VC)

**Respondent : Adv. Harshit Gupta (Counsel for the Respondent) along with CA. Hitesh Gupta
- Through VC**

1. Background of the Case:

- 1.1. In the instant matter, the Respondent had certified e-Form INC-22A of M/s CRRC Pioneer Electric (India) Private Limited on 09th April 2019.



2. **Charges in brief:**

2.1. The PDF attachment to the e-Form INC-22A, with name "Registered office Pic along with directors pic" contained error and it was a blank attachment. It was alleged that the signatory directors have attached the blank sheet just for filing the e-Form for fake compliance and trying to conceal material facts.

3. **The relevant issues discussed in the Prima facie opinion dated 19th October, 2022 formulated by the Director (Discipline) in the matter in brief, are given below:**

3.1. The specific allegation levelled by the Complainant is that e-Form INC-22A filed by M/s CRRRC Pioneer Electric (India) Private Limited vide SRN H50317478 dated 09.04.2019 contained attachment with name "Registered office Pic along with directors pic. pdf" and the said attachment contained error and it was blank attachment. The Respondent had certified e-Form INC-22A dated 09.04.2019 with respect to the above Company pursuant to Rule 25A of the Companies (Incorporation) Rules, 2014. The Respondent denied the allegation and stated that the attachment was not blank and it contained the picture of the Directors and Registered Office of the Company.

3.2. Both the Complainant and the Respondent made contrary claims regarding proper contents in the attachment to the Form. The Complainant stated that it contained error and it was blank whereas the Respondent denied the same and provided copy of pictures as claimed to be contained in the attachments to Form. Form INC-22A was not available / reflected in Company Master Data and accordingly, authenticity of the claim made by the Complainant and the Respondent could not be verified through MCA portal. However, it is evident that the Respondent had certified Form INC-22A and it was filed with MCA.

3.3. The Director (Discipline) in his Prima Facie Opinion dated 19th October, 2022 opined that the Respondent was 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. The said item of the Schedule to the Act, states as under:

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

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

x x x x x x x

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

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3.4. The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee in its meeting held on 07th January 2023. The Committee on consideration of the same, concurred with the reasons given against the charges and thus, agreed with the Prima Facie Opinion of the Director (Discipline) that the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part – I of the Second Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

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

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

S.No.	Particulars	Dated
1.	Date of Complaint in Form 'I' filed by the Complainant	15 th March, 2022
2.	Date of Written Statement filed by the Respondent	09 th June 2022
3.	Date of Rejoinder filed by the Complainant	---
4.	Date of Prima Facie Opinion formed by Director (Discipline)	19 th October 2022
5.	Written Submissions filed by the Respondent after PFO	13 th April 2023 11 th July 2023 08 th May 2024
6.	Written Submissions filed by the Complainant after PFO	---

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

The Respondent vide letters dated 13th April 2023, 11th July 2023 and vide email dated 08th May 2024, inter-alia, made submissions which are given as under:-

5.1 **Submissions made by the Respondent vide letter dated 13th April 2023:-**

- (i) Form INC - 22A vide SRN H50317478 filed by the Respondent was completely genuine and was legally supported as required in terms of Ministry of Corporate Affairs ('MCA') guidelines and regulations.
- (ii) Respondent had verified e-Form INC-22A vide SRN H50317478 at Office of the ROC wherein the attachments were visible. Hence, the Respondent denied the allegation and stated that the attachment was not blank and contained the picture of the Directors and Registered Office of the Company.

- (iii) The Complainant may be called as a witness and should be requested to open the file as per their record showing the relevant Form INC 22A.
- (iv) During her visit to the ROC office, the Respondent asked for a certified copy from ROC, but they stated they had no such system in place.
- (v) Respondent had verified the particulars [including attachment (s)] from the original records maintained by the Company which is subject matter of the e-Form INC-22A and found them to be true, correct and complete and no information material to this form has been suppressed.
- (vi) Respondent had visited the registered office of the Company and also verified the particulars as given in the Form.
- (vii) All the required attachments have been completely and legibly attached to e-Form INC-22A filed by Company vide SRN H50317478 dated 09.04.2019.
- (viii) Respondent should not be made responsible for some technical glitches of MCA 21 portal.

5.2. Submissions made by the Respondent vide letter dated 11th July 2023 and email dated 08th May 2024-

- (i) Respondent had made a request vide email communication dated 31.05.2023 to Office of Registrar of Companies, NCT of Delhi & Haryana, New Delhi, to confirm /clarify whether the attachments to Form INC 22A filed by the Respondent are accessible.
- (ii) Respondent stated that during the visit to ROC office, it appeared to be a case of technical glitch /file compatibility issue. The attachments of Form INC 22A are now being opened in Google Drive.
- (iii) Dy ROC, Office of ROC, NCT of Delhi & Haryana, New Delhi, vide email communication dated 05.06.2023 addressed to the Respondent confirmed that attachment by name 'Registered Office Pic along with Directors Pic' to Form INC 22A filed under SRN H50317478 in respect of M/s CRRC PIONEER ELECTRIC (INDIA) PVT LTD, was not opening due to the error "An internal error occurred ". Upon examination, it was found that it was a technical error relating to Adobe Reader. The same attached 'pdf' when opened in Google Drive, it was found that the attachment was 'not blank' and the photo of Director and registered office was visible in the PDF attachment. The Respondent has submitted proofs of communication regarding the above statements.

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- (iv) Respondent stated that it was a technical glitch on the part of ROC office and due to their inadvertence, matter got reported to ICAI and there was no negligence on Respondent's part.
- (v) Respondent requested to the Committee that the disciplinary proceedings initiated against her be dropped.

6. **Brief facts of the Proceedings:**

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

Particulars	Date of meeting(s)	Status
1 st Hearing	05.06.2023	Fixed and adjourned at the request of the Respondent
2 nd Hearing	10.04.2024	Part heard and adjourned.
3 rd Hearing	17.05.2024	Hearing Concluded & Decision taken

- 6.2. On the day of first hearing on 05th June 2023, the Committee noted that the Respondent vide email dated 03rd June 2023 sought adjournment due to her ill health, and the Committee acceded to the request of the Respondent and adjourned the case to a future date.
- 6.3. On the day of hearing on 10th April 2024, the Committee noted that the Respondent was present through Video conferencing mode along with her Authorized Representative(s). Thereafter, they made a declaration that there was nobody present except them from where they were appearing and that they would neither record nor store the proceedings of the Committee in any form. The Committee noted that the Complainant was not present and notice of listing of the case has been served upon them.
- 6.4. Being first hearing of the case, the Respondent was put on Oath. Thereafter, the Committee enquired from the Respondent as to whether she was aware of the charges against her and then the charges as contained in Prima Facie Opinion were read out. On the same, the Respondent replied that she is aware about the charges and pleaded Not Guilty to the charges levelled against her. In the absence of the Complainant and in view of Rule 18(9) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee adjourned the case to a later date. The case was part heard and adjourned.
- 6.5. On the day of the final hearing on 17th May 2024, the Committee noted that the authorized representative of the Complainant and Counsel(s) for the Respondent were present and appeared before it. The Committee noted that the case was part heard and the Respondent was already on oath. The Committee noted that the Respondent had filed Written Statement

dated 13th April 2023, 11th July 2023 and 08th May 2024. The Committee further noted that the Respondent has certified Form INC-22A in respect of M/s. CRRC Pioneer Electric (India) Pvt. Ltd., which was filed with Registrar of Companies. However, the Complainant Department alleged that attachment to the said Form with file name "Registered Office Pic along with directors pic.pdf" contained error and it was blank.

- 6.6. Thereafter, the Committee asked the Counsel for the Respondent to make submissions. The Committee noted the submission of the Counsel for Respondent reiterating the Respondent's submissions as contained in written submissions dated 08th May 2024.
- 6.7. The authorized representative of the Complainant accepted the submissions made by the Counsel for the Respondent and stated that attachments to Form INC - 22A containing the photographs of registered office and directors of the Company could now be opened.
- 6.8. The Committee after considering the submissions of the Complainant's Representative and Counsel for the Respondent and based on the documents and information available on record and after considering the oral and written submissions of the parties, decided to conclude the hearing in the subject case and took the decision on the conduct of the Respondent.

7. **Findings of the Committee:-**

- 7.1. The Committee noted that the Respondent had certified FORM INC-22A of "M/s CRCC PIONEER ELECTIRC (INDIA) PRIVATE LIMITED" on 09.04.2019 and along with the Form, file with name "Registered office pic along with Director" was attached as per the requirement of the Form-INC 22A.
- 7.2. The Committee noted that the Respondent had denied the allegation and that attachment to e-Form INC-22A was not blank. The Respondent contended that she had verified the particulars [including attachment(s)] from the original records maintained by the Company. The Respondent further submitted that all the attachments to the Form were correct and complete and no important information was suppressed therein.
- 7.3. The Committee further noted that the Respondent had requested the Office of Registrar of Companies, NCT of Delhi & Haryana vide email dated 31.05.2023, to confirm whether the attachments to Form INC 22A filed are accessible. In reply of the same, the Dy ROC, Office of ROC, NCT of Delhi & Haryana, New Delhi, vide email communication dated 05.06.2023 to the Respondent confirmed that attachment by file name 'Registered Office Pic along with Directors Pic' to Form INC 22A filed under SRN H50317478 in respect of M/s CRCC PIONEER ELECTRIC INDIA PVT LTD, was not opened due to a technical error relating to

Adobe Reader. Registrar of Companies has also confirmed in the said email to Respondent that the attachment was not shown as blank when opened in Google drive.

- 7.4. The Committee noted that during the hearing on 17.05.2024, the authorized representative of the Complainant also confirmed that attachments to Form INC - 22A containing the photographs of Registered Office and Director of the Company could now be opened and the document in issue could be accessed.
- 7.5. The Committee after considering the email dated 05.06.2023 of Dy. ROC, Office of ROC, NCT of Delhi & Haryana, New Delhi and submission of authorised representative of the Complainant, was of the view that non-opening of attachment named as 'Registered Office Pic along with Directors Pic' to Form INC 22A filed by the Respondent was due to technical error, and there was no mistake or negligence on the part of the Respondent. The Respondent had filed the Form along with the attachments in a proper manner in compliance with the requirements. The Committee noted that the allegations of Complainant Department have been resolved as confirmed by the Complainant Department. Accordingly, the Committee opined that no further course of action is required in the matter and the same be CLOSED. Accordingly, the Committee held that Respondent was **"NOT GUILTY"** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

8. **Conclusion:**

In view of the findings stated in above paras, vis-à-vis material on record, the Committee gives its charge wise findings as under:

Charges (as per PFO)	Findings	Decision of the Committee
Para 2.1 as above	Para 7.1 to 7.5 as above	NOT GUILTY- Item (7) of Part I of the Second Schedule

9. In view of the above observations, considering the oral and written submissions of the parties and material on record, the Committee held the Respondent **NOT GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.

10. **ORDER**

Accordingly, in terms of Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee passes an Order for closure of this case against the Respondent.

Sd/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

Sd/-

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

Sd/-

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

Sd/-


(CA. MANGESH P. KINARE)
MEMBER

Sd/-

(CA. ABHAY CHHAJED)
MEMBER

DATE: 10/10/2024
PLACE: New Delhi

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


नीलम पुंडीर / Neelam Pundir
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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