



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-IV (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.

File No.:- [PR/G/126/17/DD/422/2022/DC/1796/2023]

In the matter of:

Registrar of Companies, Mumbai

Ministry of Corporate Affairs

Through Dr. Alpesh Maniya

Deputy Registrar of Companies

100, Everest, Ground Floor,

Marine Drive,

Mumbai (Maharashtra) – 400002

...Complainant

Versus

CA. Rahul Yadav (M. No. 554730)

573, 5th Floor, Vegas Office Tower,

Sector 14, Dwarka,

New Delhi – 110075

MEMBERS PRESENT:

- 1. Shri Jiwesh Nandan, I.A.S (Retd), Presiding Officer and Government Nominee (In person)**
- 2. Ms. Dakshita Das, I.R.A.S. (Retd.), Government Nominee (Through VC)**
- 3. CA. Mangesh P Kinare, Member (In person)**
- 4. CA. Abhay Chhajed, Member (In person)**

DATE OF HEARING : 06th January 2025

DATE OF ORDER : 20th January 2025

1. That vide Findings dated 04.12.2024 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. Rahul Yadav (M. No. 554730)** (hereinafter referred to as 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.



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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 an opportunity of being heard in person/ through video conferencing and to make representation before the Committee on 06.01.2025.
3. The Committee noted that on 06.01.2025, the Respondent was present through video conferencing. During the hearing, the Respondent reiterated his written representation dated 02nd January 2025 filed by him on the Findings of the Disciplinary Committee. He submitted that his associate Mr. Manish Jain had visited registered office of the Company and had submitted the affidavit dated 09.05.2024 for confirmation of visit to this effect but the same has not been considered by the Committee in its Findings. The Committee further noted that during the hearing, the Respondent was specifically asked to provide evidence of the visit of his associate to the registered office of the Company, but he categorically denied of having any evidence/ proof and he nowhere mentioned about the name or affidavit of his associate who claimed to have visited the registered office of the Company.
4. The committee noted that a notice dated 06.06.2024 for hearing before the Committee was sent to the Respondent for appearance before it in its meeting scheduled on 18.06.2024. In the said notice for hearing, it was mentioned that the written submissions along with documents if any shall be submitted by the Respondent to be delivered at the office of Institute located at ICAI, Vishwas Nagar, Delhi - 110032. Further, it was also mentioned to submit the declaration by the Respondent for appearance before the Committee in a specified format. The Committee also noted that in response to the said notice, the Respondent vide his email dated 14th June 2024 while submitting such declaration in the specified format and intimating his mode of appearance before the committee, simply attached an affidavit dated 09/05/2024 without any mention or reference of the same in his written submissions. The said affidavit was not filed properly as stated above in the office of Institute by the Respondent, without which the same cannot be correlated to his written submissions or taken as part of his submissions. The Committee noted that the Respondent has himself admitted in his written representation dated 02.01.2025 that due to oversight on his part, the documents/ affidavit were not filed in a proper



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manner. The Committee observed that the relevance of the document attached in email and the point which the Respondent intends to prove placing reliance on such document was required to be clearly mentioned in the written representation filed before the Committee.

5. The Committee further observed that the Respondent was asked to make his submissions during the hearing, but he did not make any reference to the name of his associate or specific affidavit submitted by such associate for physical verification of the registered office of the Company undertaken by him. The responsibility of giving such information on evidence relied upon by him while making submission before the Committee was upon the Respondent which he had failed to do so at the hearing stage. The Committee felt that in the absence of any specific reference of an affidavit of his associate in his oral or written submissions before it, the random attachment in an email (among various attached documents) which is in response to notice for appearance in the meeting and not filed in proper manner, cannot be treated as submission of the respondent in the matter.

6. Further, the Committee observed that the Respondent failed to bring on record, the request/authorization letter through which he had authorized Mr. Manish Jain to visit the registered office of the Company. In view of these vital facts, the Committee was of the view that the above submission of the Respondent is not tenable at this stage. Further, the name of Mr. Manish Jain was neither mentioned or referred to in any of his oral submissions nor in written submissions filed before the Committee or at PFO stage, and non-mentioning of such vital document where reliance was placed by him is incomprehensible and as such appears to be an afterthought on the part of the Respondent. Accordingly, no credence can be given to such a document.

7. The Committee considered the reasoning as contained in Findings holding the Respondent 'Guilty' of Professional Misconduct vis-à-vis written and verbal representation of the Respondent.

8. Thus, keeping in view the facts and circumstances of the case, material on record including written and verbal representation of the Respondent on the Findings, the Committee



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noted that the Respondent himself has admitted that the registered office address was not visited by him, rather it was visited by his associate based at Mumbai and he has no proof of the visit of registered office of the Company by his associate. Further, the Respondent has not brought forward sufficient evidence to prove that required due diligence was exercised by him before certifying Form INC – 22 for verification of registered office of the Company. The Committee was thus of the view that the Respondent had failed to exercise due diligence in the matter.

9. Hence, the Professional Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 04.12.2024 which is to be read in consonance with the instant Order being passed in the case.

10. Accordingly, the Committee was of the view that the ends of justice would be met if punishment is given to him in commensurate with his Professional Misconduct.

11. Thus, the Committee ordered that the Respondent i.e., CA. Rahul Yadav (M. No. 554730), be REPRIMANDED under Section 21B(3)(a) of the Chartered Accountants Act

1949..

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Sd/-

(SHRI JIWESH NANDAN, I.A.S. (RETD.))

(PRESIDING OFFICER AND GOVERNMENT NOMINEE)

Sd/-

(MS. DAKSHITA DAS, I.R.A.S. (RETD.))

GOVERNMENT NOMINEE

Sd/-

(CA. MANGESH P KINARE)

MEMBER

Sd/-

(CA. ABHAY CHHAJED)

MEMBER

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

मीनू गुप्ता / Meenu Gupta
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
दरिस्ट्र्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
गार्डसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
At Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

CONFIDENTIAL

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

[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.

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573, 5th Floor, Vegas Office Tower,

Sector 14, Dwarka,

New Delhi – 110075

...Respondent

MEMBERS PRESENT:

CA. Ranjeet Kumar Agarwal, Presiding Officer (in person)

Ms. Dakshita Das, IRAS (Retd.), Government Nominee (in person)

CA. Mangesh P Kinare, Member (in person)

DATE OF FINAL HEARING : 18th September 2024

PARTIES PRESENT:

Respondent : CA. Rahul Yadav (Through VC)

1. Background of the Case:

- 1.1. In the instant case, the Respondent was involved in the incorporation of M/s. Apax Event Solutions Private Limited (hereinafter referred as 'the Company') and had certified Form

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INC-22 of the Company. However, the allegation raised by the Complainant against the Respondent pertained to certification and filing of Form INC-22 only.

2. **Charge(s) in brief:**

- 2.1. In e-form INC-22 certified by the Respondent on 28.06.2020, the Registered Office address of the Company is shown to be situated at 'Time Square Building, 7th & 8th Floor, CTS 349 & 349-1 W.E. Highway, Nr. Sai Service, Andheri East, Mumbai, MH – 400069, India'. However, during physical verification by the officials of Complainant department, said registered office was not found to have been maintained by the Company. Thereby, it is alleged that false information / statement had been submitted by the Respondent in e- Form INC-22 in connivance with directors of the Company. It is stated that the modus operandi has been adopted to bypass the robust system of built-in checks in the MCA, to allow Chinese Nationals to become the Directors. The Respondent has certified the Form of the Company and has submitted the documents knowing it to be false, with falsified address. Further, it is also informed that inquiry under Section 206(4) of the Companies Act, 2013 has been initiated into the affairs of the Company and Complaint has also been lodged with Marine Drive Police Station.

3. **The relevant issues discussed in the Prima Facie Opinion dated 17th January 2023 Formulated by the Director (Discipline) in the matter in brief, are given below:**

- 3.1. The Complainant department has conducted the physical inspection on 29.12.2021 and has not found the registered office of the Company at the address as was mentioned to be the registered office address of the Company in Form INC-22, certified by the Respondent. On perusal of leave and license agreement submitted by the Respondent, it was observed that said premises was taken on sublease by the Company from M/s. Mascots Business Support Services Private Limited on 03rd June 2020 who has actually taken the said building on lease from the original owner, Mr. Manoj Seksaria.
- 3.2. On perusal of clauses of leave and license agreement, it was noted that the said clauses of the agreement simply give the impression that the said premise was taken by the Company just for ROC compliance purpose rather than for doing any legitimate business. Moreover, from the said clauses, it was also apparent that the possession and control of the premises remained with the service provider / licensor (M/s. Mascots Business Support Services Private Limited) and has not been transferred to the Company and the Company was just availing the service of the licensor to receive the letters and mail of the Company being received on the said address. This kind of agreement / arrangement undertaken by the Company with the licensor / sub-lessor of the premises for its registered office is viewed as a

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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	16 th August 2022
2.	Date of Written Statement filed by the Respondent	01 st October 2022
3.	Date of Rejoinder filed by the Complainant	Not filed
4.	Date of Prima Facie Opinion Formed by Director (Discipline)	17 th January 2023
5.	Written Submissions filed by the Respondent after PFO	19 th August 2023 and 13 th May 2024
6.	Written Submissions filed by the Complainant after PFO	Not filed

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

The Respondent vide letter dated 19th August 2023 and 13th May 2024, inter-alia, made the submission which are given as under:-

- (i) As per Section 12 of the Companies Act, 2013, the registered office address should be any place which is capable of receiving all the communications from the government and acknowledgments of such communication.
- (ii) The registered office of the Company was physically verified by his associate in Mumbai, as he could not travel and verify the registered office personally on account of lockdowns in July 2020 due to COVID-19.
- (iii) There is no such provision under the Companies Act 2013, which mandates that the office space cannot be a sub-leased or the possession is to be transferred from service provider to the Company.
- (iv) The possession of space cannot be transferred to anyone if the space is a co-working space or is a managed workspace. The transfer of possession is not relevant for capability of receiving and acknowledging the communications and notices as may be addressed to it. Further, the workspace provider has also charged for this leave and license agreement.

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- (v) The intent of Section 12 is not to push Companies to operate business from the registered office address but to ensure that there is a formal address which is capable of receiving and acknowledging all communications and notices as may be addressed to it.

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

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

Particulars	Date of meeting(s)	Status
1 st Hearing	05 th September 2023	Part heard and adjourned.
2 nd Hearing	17 th May 2024	Deferred due to paucity of time.
3 rd Hearing	18 th June 2024	Deferred due to paucity of time.
4 th Hearing	15 th July 2024	Adjourned in the absence of the Complainant.
5 th Hearing	21 st August 2024	Adjourned at the request of the Respondent.
6 th Hearing	18 th September 2024	Hearing concluded and decision taken.

- 6.1. On the day of hearing on 05th September 2023, the Committee noted that the Respondent was present in person and appeared before it and the Complainant was not present and notice of listing of the case has been served upon him. Being first hearing of the case, the Respondent was put on oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges, and then charges against the Respondent were read out. On the same the Respondent replied that he was aware of the charges and pleaded Not Guilty to the charges levelled against him. Thereafter, 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.
- 6.2. On the day of hearing on 17th May 2024 and 18th June 2024, consideration of the case was deferred by the Committee due to paucity of time.
- 6.3. On the day of hearing on 15th July 2024, the Committee noted that the Complainant was not present for the hearing and notice of listing of the case has been served upon him. The Committee adjourned the case to a future date with a view to extend one final opportunity to the Complainant to substantiate the charges. The Committee directed to inform the Complainant to appear before it at the time of next listing and in case of failure to appear, the matter would be decided ex-parte based upon the documents and materials available on record.

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- (v) The intent of Section 12 is not to push Companies to operate business from the registered office address but to ensure that there is a formal address which is capable of receiving and acknowledging all communications and notices as may be addressed to it.

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6 th Hearing	18 th September 2024	Hearing concluded and decision taken.

- 6.1. On the day of hearing on 05th September 2023, the Committee noted that the Respondent was present in person and appeared before it and the Complainant was not present and notice of listing of the case has been served upon him. Being first hearing of the case, the Respondent was put on oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges, and then charges against the Respondent were read out. On the same the Respondent replied that he was aware of the charges and pleaded Not Guilty to the charges levelled against him. Thereafter, 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.
- 6.2. On the day of hearing on 17th May 2024 and 18th June 2024, consideration of the case was deferred by the Committee due to paucity of time.
- 6.3. On the day of hearing on 15th July 2024, the Committee noted that the Complainant was not present for the hearing and notice of listing of the case has been served upon him. The Committee adjourned the case to a future date with a view to extend one final opportunity to the Complainant to substantiate the charges. The Committee directed to inform the Complainant to appear before it at the time of next listing and in case of failure to appear, the matter would be decided ex-parte based upon the documents and materials available on record.

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- 6.4. On the day of hearing on 21st August 2024, the Committee noted that in the captioned case, the Respondent vide mail dated 13.08.2024 had sought an adjournment on account that he has prior professional commitments on the date of hearing. Acceding to the request of the Respondent, the Committee adjourned the captioned case to a future date. The Committee also directed to inform the Respondent to appear before it at the time of next listing and in case of his failure to appear, the matter would be decided ex-parte based upon the documents and materials available on record.
- 6.5. On the day of hearing on 18th September 2024, the Committee noted that the Complainant was not present for the hearing and notice of listing of the case has been served upon him. The Respondent was present through VC and appeared before it. Thereafter, the Committee asked the Respondent to make submissions. The Committee noted the submissions of the Respondent which, inter alia, are given as under -
- (i) The Respondent had certified Form INC - 32 and INC - 22 filed with the Complainant Department by the Company.
 - (ii) The registered office address of the Company was visited and verified by his associate based at Mumbai due to lockdown guidelines at that period.
 - (iii) The Respondent admitted that he did not have any proof of visit of his associate to the registered office of the Company.
 - (iv) As per Section 12 of the Companies Act, 2013, the registered office address should be any place which is capable of receiving all the communications from the Government and acknowledgments of such communications.
 - (v) There is no provision in the Companies Act, 2013, which mandates that office space cannot be sub-leased or ownership should be in the name of the Company.
- 6.6. Based on the documents/material and information available on record and the oral and written submissions made by the Respondent, and on consideration of the facts of the case, the Committee concluded the hearing in subject case and took decision on the conduct of the Respondent.

7. **Findings of the Committee:**

- 7.1 The Committee noted that the charge against the Respondent is that during physical verification by the officials of Complainant department, registered office of the Company (M/s. Apex Event Solutions Private Limited) was not found to be maintained and thus, false

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information / statement had been submitted by the Respondent in Form INC-22 in connivance with directors of the Company.

The details of charge is given in para 2.1.

The Committee noted the background of the case as well as oral and written submissions made by the Respondent, documents / material on record and gives its findings as under: -

7.2 The Committee noted the submissions of the Respondent that he had certified Form INC -22 which was filed with the Complainant Department and that the registered office of the Company was visited and verified by his associate based at Mumbai due to lockdown guidelines at that period. He further submitted that as per Section 12 of the Companies Act, 2013, the registered office address should be any place which is capable of receiving all the communications from the Government and acknowledgments of such communications and there is no provision in the Companies Act, 2013, which mandates that office space cannot be sub-leased or ownership should be in the name of the Company.

7.3 The Committee noted that Section 12 of the Companies Act, 2013, provides as under:-

"12. Registered Office of Company

(1) A Company shall within thirty days of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it.

(2) The Company shall furnish to the Registrar verification of its registered office within a period of thirty days of its incorporation in such manner as may be prescribed."

7.4 Further, the Committee noted that in relation to certification of Form INC - 22, the Respondent himself has admitted that the registered office address was not visited by him, rather it was visited by his associate based at Mumbai and he has no proof of the visit of registered office of the Company by his associate. The Committee further noted that during the hearing a query was posed to the Respondent as to whether there is any e-mail received from his associate in regard to the visit and verification of the registered office of the Company on a date immediately after such verification of the premises. The Committee also noted that in response, the Respondent informed that he has not obtained any e-mail conformation/report of such verification undertaken by him. The Respondent further added

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he has no proof of visit and verification undertaken by his associate of the registered office of the Company.

- 7.5 The Committee perused Form INC – 22 certified by the Respondent and observed that while certifying said Form of the Company, the Respondent has given the following declaration:

"I declare that I have been duly engaged for the purpose of certification of this form. It is hereby 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 records maintained by the Company 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:

- 1. 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;*
- 2. All the required attachments have been completely and legibly attached to this Form;*
- 3. I further declare that I have personally visited the registered office given in the form at the address mentioned herein above and verified that the said registered office of the company is functioning for the business purposes of the company."*

- 7.6 In view of above, the Committee noted that the Respondent had certified e-Form INC – 22 by giving a declaration that he had personally visited the registered office of the Company, which was a mandatory requirement. The Committee observed that the Respondent has admitted that he has not personally visited the registered office of the Company, and also no evidence in regard to personal visit and verification of registered office by his associate was brought before the Committee.

- 7.7 On overall consideration, the Committee opined that the Respondent has not brought forward sufficient evidence to prove that required due diligence was exercised by him before certifying Form INC – 22 for verification of registered office of the Company. Thus, the Committee viewed that the Respondent had given wrong declaration in e-Form INC -22, wherein he had declared that he had personally visited the registered office of the Company and verified that said registered office is functioning for business purposes, and held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.

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8 Conclusion

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

Charges (as per PFO)	Findings (Para ref.)	Decision of the Committee
Para 2.1 as given above	Para 7.1 to 7.7 as given above	GUILTY- as per Item (7) of Part I of Second Schedule

- 9 In view of the above observations, considering the oral and written submissions of the parties and documents on record, the Committee held the Respondent **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. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

Sd/-
(MS. DAKSHITA DAS, IRAS {RETD.})
GOVERNMENT NOMINEE

Sd/-
(CA. MANGESH P KINARE)
MEMBER

DATE: 04/12/2024
PLACE: New Delhi

प्रमाणित सत्य प्रतिलिपि / Certified True Copy

Anju Grover

अंजू ग्रोवर / ANJU GROVER
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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