

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

PR/G/298/2022-DD/207/2022-DC/1653/2022

[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/G/298/2022-DD/207/2022-DC/1653/2022]

In the matter of:

The Registrar of Companies,
NCT of Delhi & Haryana, Through Shri Mangal Ram Meena,
Deputy Registrar of Companies, Registrar of Companies,
NCT of Delhi & Haryana, Ministry of Corporate Affairs 4th Floor, IFCI Tower,
61, Nehru Place,
New Delhi – 110019.

...Complainant

Versus

CA. Bhuwan Chand Sharma (M. No. 543826)
M/s Bhuwan Sharma & Associates (FRN 032848N) Chartered Accountants
303,3rd Floor, DA Shivalik Hotel,
Manni Ka Bad,
Alwar – 301001.

...Respondent

Members Present (in Person):-

CA. Ranjeet Kumar Agarwal, Presiding Officer
Mrs. Rani S Nair, I.R.S. (Retd.), Government Nominee
Shri Arun Kumar, I.A.S. (Retd.), Government Nominee
CA. Sanjay Kumar Agarwal, Member
CA. Cotha S Srinivas, Member

Date of Hearing : 16th December 2024

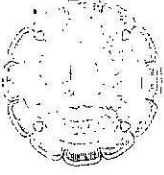
Date of Order : 21st January 2025

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. Bhuwan Chand Sharma (M. No. 543826), Alwar** (hereinafter referred to as 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.

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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 opportunity of being heard in person / through video conferencing and to make representation before the Committee on 16th December 2024.
3. **CA. Bhuwan Chand Sharma (M. No. 543826)** was present before the Committee on 16th December 2024 through video conferencing and made his verbal representation on the Findings of the Disciplinary Committee, inter-alia, stating that a valid Rent Agreement and Memorandum of Understanding was executed between M/s Meraki Products and Services Private Limited and M/s Fume Infotech Private Limited on 26th February 2021. The Agreement dated 04th February 2022 referred to in the Committee's Findings states that the office was given for a virtual office purpose, which pertained to a period nearly one year after the company's incorporation (16th March 2021), during which the Respondent had no professional engagement with the company. He requested the Committee to review the facts and evidence presented in the instant case. The Committee also noted that the Respondent in his written representation dated 20th November 2024 on the Findings of the Committee, inter-alia, stated as under:
 - a. Valid Rent Agreement and Memorandum of Understanding was executed between both parties on 26th February 2021. Combined reading of all the terms imply that the lessee can use the premises for commercial purposes. It also stipulates that the premises must be vacated and restored to its original condition upon Agreement expiry. Hence, if any place which needs to be vacated must be in the possession of the lessee at the very first place.
 - b. In the Rent Agreement, no explicit term or any condition was found which stated that the Agreement is made for a virtual office. The Agreement given to him while incorporation of the Company had no such point or term mentioned.
 - c. If any alteration is made in the Terms and Conditions of the Rent Agreement at the time of renewal i.e. post incorporation of the Company, the same is out of the scope of Incorporation Process/Spice+ e-Form (Part B).
 - d. Referring to any Agreement or any term of such Agreement which is executed after the incorporation of the Company and raising doubts/question on the validity of the documents executed while incorporation is not tenable.
 - e. No objection Certificate clearly states that the owner has given his consent to use the premises by other Company, it implies that the other Company i.e. Meraki Products and Services Private Limited has a clear right to the premises to be used as their registered office.
 - f. When a clear no objection Certificate is issued to use the premises, it is accounted as a valid acceptable proof as per Companies Act and can be used for Company incorporation.



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- g. In the investigation when the question was raised on the validity of ownership, he had brought on record a copy of a utility bill from Airtel.
- h. There is no requirement to upload any proof of physical visit or verification to the incorporation Forms.
- i. The Respondent agreed to the result of investigation that the board was not found and as per the Companies Act it should be there. Also, the company should maintain books of accounts at the said premises. However, till the stage of incorporation it is not possible for a company to place a name board or maintain books since the incorporation process was not complete. Also, the same is not a part of his physical verification because the company which is not registered yet cannot have a board and books of accounts.
- j. Assurance regarding the fact that the company will remain functional/operational at the said address in future also is not in his personal or professional capacity. There can be any uncertain event which can occur in the near future and any changes can occur in the operation mode of the company.
- k. With respect to point 8.9 of the Findings, the Respondent stated that any modifications made were beyond his scope of involvement.
- l. Reference to the agreement dated 04-02-2022 in the Committee's observations (point 8.10 of the Findings) pertains to a period nearly one year after the company's incorporation (16-03-2021), during which the Respondent had no professional engagement with the company.
- m. Apart from the Statement of advocate of "Fume Infotech Private Limited" that his client has given a virtual space, nothing else is contrary to the fact that a valid rent agreement, no objection certificate and board resolution is already issued and signed by both the parties giving every right to use the premises by Meraki Products and Services Pvt Ltd i.e. Company
- n. Merely making a statement that in the renewed agreement it is mentioned that the space allocated is virtual office does not make him liable for any wrong submission or invalid documents at the time of incorporation. The documents executed at the incorporation of the company have no point or terms which say that the office given is virtual office.
- o. Any subsequent actions or decisions taken by the directors of the Company are neither directly nor indirectly connected to his professional conduct.
- p. The Respondent requested the Committee to review the facts and evidence presented.

4. The Committee considered the reasoning as contained in the Findings holding the Respondent Guilty of Professional Misconduct vis-à-vis written and verbal representation of the Respondent. On consideration of the representation of the Respondent, as regard his request to review the facts and evidence presented in the case, the Committee referred to the following observations in para 8.8 of its Findings:

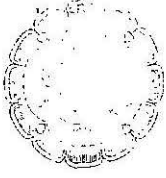
"Further, the Respondent in his written submissions stated that the Rent Agreement between the company and M/s Fume Co-work is executed on 26th February 2021 with one year of validity. Further, point no. 13 in the rent agreement executed clearly mentioned that the Director can use the said property for commercial purpose only. Although in his written submissions, he stated that the copy of the same is part of the response, however, the same was not attached. Infact, the Respondent attached the copy of the leave and license Agreement dated 4th February 2022 which had been executed between the Company and the lessor M/s Fume Infotech Pvt. Ltd."

The Committee thus held that it was incumbent upon the Respondent to provide the alleged Rent Agreement dated 26th February 2021 in his defence during the course of hearing which he failed to do. He brought on record the same after the receipt of the Findings of the Committee which cannot be considered at this stage as the guilt of the Respondent ~~has already been established on the basis of the documents and submissions~~ on record. Further, apart from the rent Agreement there are other evidence which have been taken into view by the Committee to arrive at its Findings. The Committee also held that there is no provision under the Chartered Accountants Act 1949 and/or the Rules framed thereunder to review or reconsider the Findings arrived at by the Committee.

5. Thus, keeping in view the facts and circumstances of the case, material on record including verbal and written representation on the Findings, the Committee on a combined reading of the Inquiry report together with the leave and license Agreement dated 04th February 2022 brought on record by the Respondent as a proof of registered office of the Company, noted that the terms of the usage mentioned in the said agreement prohibit the use of the said premises as primary registered office of the business with ROC or Local Government bodies. However, in the extant case, the same has been used for that purpose.
- 5.1 The Committee also noted that although the Company had obtained No Objection Certificate from the lessor dated 24th February 2021 to use the said premises for getting Company and GST registration, the specific terms of lease and license agreement did not allow Company to use the said premises as their primary registered office with ROC or local Government bodies. Section 12 of the Companies Act 2013 read with Rule 25 of Companies (Incorporation) Rules, 2014 provides that a company needs to have physical registered office.
- 5.2 The Committee was of the view that the very purpose of having a registered office as contemplated in Section 12 of the Companies Act 2013 read with Rule 25 of Companies (Incorporation) Rules, 2014 was defeated. Thus, the Committee held that the Respondent

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being the certifying professional of Form INC 32(Spice+) with respect to incorporation of the Company was casual in his approach and merely relied upon the documents presented before him by the Company in respect of the said certification without any corroboration. The required diligence was not exercised by him while certifying Form INC 32(Spice+).

- 5.3 Hence, professional misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 12th November 2024 which is to be read in consonance with the instant Order being passed in the case.
6. Accordingly, the Committee was of the view that ends of justice will be met if punishment is given to him in commensurate with his professional misconduct.
7. Thus, the Committee ordered that CA. Bhuwan Chand Sharma (M. No. 543826), Alwar be Reprimanded under Section 21B(3)(a) of the Chartered Accountants Act 1949.

Sd/-
(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

Sd/-
(MRS. RANI S NAIR, I.R.S. (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 सुजि गर्ग / CA. Sujati Garg
सहायक निदेशक / Assistant Director
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (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

File No.:- PR/G/298/2022-DD/207/2022-DC/1663/2022

In the matter of:

**The Registrar of Companies,
NCT of Delhi & Haryana, Through Shri Mangal Ram Meena,
Deputy Registrar of Companies, Registrar of Companies,
NCT of Delhi & Haryana, Ministry of Corporate Affairs 4th Floor, IFCI Tower,
61, Nehru Place,
New Delhi – 110019. ...Complainant**

Versus

**CA. Bhuwan Chand Sharma (M. No. 543826)
M/s Bhuwan Sharma & Associates (FRN 032848N) Chartered Accountants
303,3rd Floor, DA Shivalik Hotel,
Manni Ka Bad,
Alwar – 301001. ...Respondent**

MEMBERS PRESENT:

**CA. Ranjeet Kumar Agarwal, Presiding Officer (in Person)
Mrs. Rani S Nair, I.R.S. (Retd.), Government Nominee (through VC)
Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (in Person)
CA. Sanjay Kumar Agarwal, Member (in Person)**

DATE OF FINAL HEARING : 14th June 2024

DATE OF DECISION TAKEN : 18th September 2024

PARTIES PRESENT:

**Authorized representative of the Complainant Department: Shri. Gaurav, Deputy Registrar of Companies Delhi & Haryana (Through VC)
Respondent: CA. Bhuwan Chand Sharma (M. No. 543826), Alwar (Through VC)**

- 1.1 It had come to the knowledge of Central Government that certain individuals viz. Directors / Shareholders / entities in certain involved Companies, had engaged dummy persons as subscribers to Memorandum of Association(MOA) and Directors and registered these Companies with ROC, Delhi & Haryana by using forged documents / falsified addresses / signatures. Further, Director Identification Number (DIN) was obtained by furnishing false / forged document. It is also stated that the Companies / individuals / entities directly or indirectly connected with the Companies were found to be engaged in illegal / suspicious activities viz, money laundering, tax evasion and non-compliance of various provisions of laws.
- 1.2 It is further stated that certain professionals had connived with these Companies / its directors / subscriber to Memorandum of Association (MOA) and individuals who were acting behind these Companies and had incorporated the Companies and were also assisting in running of these Companies for illegal / suspicious activities in violation of various laws and also certified various reports / e-forms filed with Ministry of Corporate Affairs on MCA21 Portal with false information or by concealing the material facts / information to hide the real identity of persons behind the Companies particularly at the time of incorporation by certifying professional and by Auditors by knowingly filing financial statements without attaching the annexures of Borrowing / Loans & Advances / Investments / Inventories and Notes to Accounts for hiding material information.
- 1.3 While the Professionals (CA) are duty bound to discharge their duties as per applicable law(s) and certify / verify documents / e-forms or give certificate / report after due diligence so that the compliance to the provisions of law shall be ensured, however, they had failed to discharge their duties and willfully connived with Directors / Company / Shareholders / Chinese Individuals in certifying E-forms knowingly with false information / documents / false declaration / omitting material facts or information in the said Company.

2. CHARGES IN BRIEF:-

- 2.1 The Respondent had certified the incorporation Form INC-32 (SPICe+) of M/s Meraki Products and Services Private Limited (herein referred to as "Company"). The Complainant Department alleged that after examination of the documents filed by the professional on behalf of the Company during the incorporation and after physical verification of the registered office, it was found that the Company does not appear to have any registered office as disclosed in its incorporation documents. Further, in respect of the registered office of the Company, the following points were also pointed out by the Complainant Department: -
 - a) The name and address of the Company was not painted / affixed at its location where the business was carried on and hence, no evidence of existence of the Company was found.
 - b) No official / employee of the Company was found at the registered office.
 - c) The guard at the premises had no knowledge of the existence of the Company.
 - d) The directors of the Company, Mr. Alok Saxena and Mr. Amit Saxena, furnished false details during the incorporation of the Company which was certified by the Respondent.

(Signature)

- e) NOC for using the address of M/s. Fume Infotech Private Limited was given by Mr. Karan Chawla, one of the directors of M/s Fume Infotech Pvt. Ltd., with a forged stamp of the Company as well as tampered signature of both the directors of the Company. Further, Mr. Karan Chawla has given NOC in the capacity of partner of the Company, but as per signatory details of the Company he is one of the directors of the Company. Hence, on examination of these documents, it is prima facie observed that NOC given by Mr. Karan Chawla is a fabricated document.
- f) The utility bill submitted for the registered office of the Company during the incorporation appears to be a fabricated document which contains copy-pasted images of Airtel Logo and signatures of some Airtel Official.

Hence, it is alleged that the Respondent failed to perform his duties with due diligence as a certifying professional, certified fabricated documents and appear to be involved in suspicious / illegal activities and aiding the incorporation of suspected shell Company.

2.2 On examination to trace Chartered Accountant Membership Number on portal of ICAI, it was observed that the Respondent has given wrong membership number in incorporation documents to hide his real identity.

3. THE RELEVANT ISSUE DISCUSSED IN THE PRIMA FACIE OPINION DATED 26TH SEPTEMBER 2022 FORMULATED BY THE DIRECTOR (DISCIPLINE) IN THE MATTER IN BRIEF, IS GIVEN BELOW:

3.1. As regard the First Allegation that on physical verification of the registered office of the Company by the Complainant Department, it was found that no such Company existed at the address as mentioned in the incorporation documents, it was observed that the Respondent did not make any submissions against the said allegation. On perusal of Incorporation Form (SPICE+) certified by the Respondent, it was noted that the said Form contains details of name of the Company, activity of the Company, share capital, address of the Company, directors' details, DIN, equity shares subscribed, and details of attachments. It was also noted that as attachments, copy of the Utility bill and NOC received from Mr. Karan Chawla on behalf of M/s. Fumes Infotech Private Limited were annexed. The said Form was digitally signed by the Respondent as certifying professional.

3.2. Further in respect of NOC, it is also pertinent to mention that at Rule 8(5) stage, M/s Fume Infotech Private Limited was specifically asked to provide details as to *whether any agreement was executed by them with M/s. Meraki Products and Services Private Limited (Company) to give their premises to the above-mentioned Company on lease / rent.* They provided the Lease and License agreement entered by them with the said Company. On perusal of the same, it was observed that the premises mentioned as the registered office of the Company was given on lease to the Company by M/s. Fume Infotech Private Limited. However, it is also observed that by merely taking the said premise on lease, it cannot be assumed that the Company will be functioning for business purposes from such premises. In this regard, it is observed that while certifying the Incorporation Form (SPICE+), the certified professional has to declare as under:

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"I further declare that I have personally visited the premises of the proposed registered office given in the form at the address mentioned herein above and verified that the said proposed registered office of the Company will be functioning for the business purpose of the Company (wherever applicable in respect of the proposed registered office has been given)."

- 3.3. From the above, it was clear that the Respondent was required to visit the premises personally and was also required to verify that the proposed registered office of the Company will be functioning for the business purpose. Since the Respondent neither submitted any submission in the instant matter nor there was any documentary proof on record regarding physical verification of the registered office of the Company by him at the time of incorporation, it cannot be stated that the Respondent has visited the registered office of the Company and verified that the Company will be functioning from the registered office of the Company as required in terms of the Declaration given in the Incorporation Form
- 3.4. In Second allegation, it is alleged that the Respondent has mentioned wrong membership number in the incorporation documents to hide his identity. In this regard, on perusal of the incorporation Form i.e., SPICe+, it is observed that the Respondent has mentioned his membership number as 543826. From perusal of the Member Card of the Respondent in the ICAI record, it is noted that the same membership number belongs to the Respondent. Hence, it cannot be stated that the Respondent has given wrong membership number in the Incorporation Form to hide his identity or mislead the Government Authority. Thus, it is viewed that the instant allegation is not maintainable against the Respondent.
- 3.5. Before concluding, it may be noted from the facts on record that the role of Respondent in the instant matter was to incorporate the Company; and that the task of certifying e-Form INC-32 (SPICe+) by the Respondent was for the limited purpose of filing of incorporation of the Company. The Respondent does not appear to have been involved in any illegal activity of the Company and no evidence to the contrary has been produced before this Directorate by the Complainant. Further, there is no reason even remotely suggesting that the Respondent has facilitated transfer of money from / to various sources of Company or rendered assistance in diversion of money for tax evasion or other unlawful purposes or controlled the Company. Further, no evidence has been adduced to show that certain dummy persons were engaged as Directors / subscribers for suspicious transactions and registered the Company with ROC for illegal activities and the Respondent was aware of the same. Moreover, no evidence has been brought on record by the Complainant to substantiate that the said Company is a shell Company. In view of above, it can be stated that there is no concrete evidence to show that the Respondent had either used his professional knowledge and his professional association for undesirable purposes or that he has certified the fabricated documents.
- 3.6. Accordingly, the Director (Discipline) in his Prima Facie Opinion dated 26th September 2022 opined that the Respondent is Prima Facie Guilty of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 in respect of the following allegation:

S. No.	Allegation(s)	Prima Facie Opinion of Director (Discipline)	Relevant Item
a)	<p>The Company does not appear to have any registered office as disclosed in its incorporation documents because:</p> <p>a. The name and address of the Company was not painted / affixed at its location</p> <p>b. No official / employee of the Company was found.</p> <p>c. The guard at premise had no knowledge of the existence of the Company.</p> <p>d. NOC was given by Mr. Kiran Chawla in capacity of partner of Company (M/s. Fume Infotech Private Limited), but as per signatory details of the Company he is a director. Hence, it is prima facie observed that NOC given by Karan Chawla is a fabricated document.</p> <p>e. Utility bill submitted for registered office of the Company during the incorporation, appears to be a fabricated document which contains copy-pasted images of Airtel Logo and signatures of some Airtel Official.</p>	Guilty	Item (7) of Part I of the Second Schedule
b)	The Respondent has mentioned wrong membership number in the incorporation documents to hide his identity.	Not Guilty	

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

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

3.2 The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee in its meeting held on 31st October 2022. The Committee on consideration of the same, concurred with the reasons given against the charges in paras 11.4.1 to 11.5 of the Prima Facie Opinion 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:

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

S.NO.	Particulars	Dated
a)	Date of Complaint in Form 'I' filed by the Complainant	15 th March, 2022
b)	Date of Written Statement filed by the Respondent	Not Submitted
c)	Date of Rejoinder filed by the Complainant	Not Submitted
d)	Date of Prima facie Opinion formed by Director (Discipline)	26 th September, 2022
e)	Written Submissions filed by the Respondent after Prima Facie Opinion	18 th January 2023 and 29 th May 2024
f)	Written Submissions filed by the Complainant after Prima Facie Opinion	12 th September 2024

5. WRITTEN SUBMISSIONS FILED BY THE RESPONDENT:

5.1 The Respondent in his Written Submissions dated 18th January 2023 has, inter-alia, made the following submissions: -

- The said Company M/s. Meraki Products and Services Private Limited was incorporated on 16.03.2021 and he was the certifying professional for the same process. The Directors of the Company, Mr. Alok Saxena and Mr. Amit Saxena approached him to incorporate the Company.
- As stated by the Director of the said Company, it will be engaged in operating an E-Commerce platform offering online shopping for private label coffee, tea and other natural products in raw processed form.
- While submitting the name application for the said Company, he had mentioned the detailed objective of the Company which is approved by the Ministry of Corporate Affairs on 24.02.2021 via SRN T03836772 hence taken as legal and legitimate business objective.
- The documents taken from the director of said Company are provided to the Ministry of Corporate Affairs in a proper legible format. All the information which

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- is required by the Statutory Forms for incorporation are duly filed in and is provided to the Ministry of Corporate Affairs in the format as required by law.
- e) At the time of the incorporation of the Company he had personally visited the office space and checked the space allotted to the Client i.e. Mr. Alok Saxena for which rent agreement and NOC is executed and at the time of his visit he noticed that there is no plate or Board is affixed with client name. because the Company was under incorporation at the time and the process was not completed. However, the documents required were duly executed by both the parties.
 - f) During the incorporation process he exercised due diligence as he had obtained all the documents and information from Mr. Alok Saxena and Mr. Amit Saxena and duly verified the same with their PAN, AADHAR, PASSPORT and Utility bill and found them in to be order.
 - g) Since he had limitation on the size of Form SPICE Part B i.e. 6 MB as per MCA, he had compressed the document which might be the reason the documents are not appearing as a legit document. Further, the error in mentioning the designation of the director is a typographical error.
 - h) The Utility Bill was verified by him prima facie and seemed in order and also confirmed by M/s Fume Co-work that the bill was valid and there was no alteration made to the original bill. However, an extensive check of the same was not possible in his individual capacity since it is not a public document or information which can be accessed at any website or within any Department. Also, he had compressed the documents including Airtel bill to arrange all the documents in order and within the allowed size.
 - i) He had worked with adequate care and due diligence, and he was not involved in any fraudulent activity whatsoever nature, and he had exercised the maximum amount of knowledge and professional care and left no space for error or misrepresentation at his end.

5.2 The Respondent in his Written Submissions dated 29th May 2024, inter-alia, made the following submissions: -

- a) The Respondent had connected with the Director of the Company regarding the existence of their business, and the Director confirmed to him that the Company is currently operating at the address mentioned in the incorporation Forms. It has also been informed that anyone can visit the premises to verify the Company's documents and existence. The Company's name board is present at the address.
- b) The Respondent further enquired with the property owner and received positive confirmation from the management of the property.
- c) Mr. Deepak, the contact person at the space, confirmed that the Company is currently operating at their address, has a valid rent agreement which is duly renewed from time to time since incorporation, and has a name board displayed.
- d) During the incorporation of the Company, the Respondent has submitted an Airtel Bill as proof of address, which was questioned by the ROC. In this regard, he further enquired with Airtel and found that M/s Fume Infotech Private Limited still has an active connection with the same address and PAN in Airtel records. As evidence, the Respondent obtained a certified copy of the bill from Airtel.
- e) Additionally, the Respondent found another utility bill issued in the name of M/s Fume Infotech Private Limited by Tata Tele Business Services with the same name and address.

6. WORKING SUBMISSIONS FILED BY THE COMPLAINANT DEPARTMENT:

6.1 The Complainant Department vide email dated 12th September 2024 provided a copy of the Inquiry Report.

7. BRIEF FACTS OF THE PROCEEDINGS:

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

S.No.	Particulars	Date of meeting(s)	Status
a)	1 st hearing	20 th April 2023	Part heard and Adjourned in the absence of any representation from the Complainant Department.
b)	2 nd hearing	23 rd April 2024	Part Heard and Adjourned with the direction to the Complainant Department to provide certain documents/information with a copy to the Respondent to provide comments, if any, on the same.
c)	3 rd hearing	17 th May 2024	Part Heard and Adjourned with the direction to the Respondent to provide certain documents/information
d)	4 th hearing	14 th June 2024	Hearing concluded. Decision on the conduct of the Respondent was reserved.
e)	----	29 th August 2024	Committee decided to seek certain documents
f)	----	18 th September 2024	Decision on the conduct of the Respondent taken.

7.2 On the day of first hearing on 20th April 2023, the Committee noted that the Respondent was present in person from the ITO Office, ICAI Bhawan, New Delhi. The Committee noted that neither the Complainant was present, nor any intimation was received from his side, despite due notice/e-mail to him. The Respondent was 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. The Committee, looking into the absence of the Complainant and the fact that this was the first hearing, decided to adjourn the hearing to a future date. With this, the hearing in the matter was part heard and adjourned.

7.3 On the day of the second hearing held on 23rd April 2024, the Committee noted that Authorized representative of the Complainant Department and the Respondent was present before it through video conferencing. Subsequent to the last hearing held in the case, there had been a change in the composition of the Committee which was duly intimated to the Authorized Representative of the Complainant Department and the Respondent who were present before the Committee. The case was taken up for

a hearing. Thereafter on being asked by the Committee, the Authorized Representative of the Complainant Department substantiated the contents submitted in Form I and confirmed that he has nothing more to add in this case. Subsequently, the Respondent presented his line of defence. The Committee posed certain questions to the Authorized Representative of the Complainant Department and the Respondent to understand the issue involved in the case.

7.4 On consideration of the submissions and documents on record, the Committee directed the Authorized Representative of the Complainant Department to provide the following documents/information within next 10 days with a copy to the Respondent to provide his comments thereon, if any:-

- a) Response on the written submissions made by the Respondent on the Prima Facie Opinion.

The Committee also advised the Respondent if he wishes to make any further written submissions in the case, he may do so, with a copy to the Complainant Department.

With this, the hearing in the case was part heard and adjourned.

7.5 On the day of the third hearing held on 17th May 2024, the Committee noted that the Authorized representative of the Complainant Department and the Respondent was present before it through video conferencing. The Committee further noted that certain documents/information was sought from the Complainant Department at the time of last hearing held in the case on 23rd April 2024. However, no response was received from the Complainant Department. Subsequently, the Respondent again referred to the written submissions made by him on the Prima Facie Opinion vide communication dated 18th January 2023. On consideration of the submissions made, the Committee posed certain questions to the authorized representative of the Complainant Department and the Respondent which were responded by them. Thus, on consideration of the submissions and documents on record, the Committee directed the Respondent to provide the following documents/information within next 03 days:

- a) Certified true copy of the Lease and Licence Agreement (D10-D13 of the Prima Facie Opinion) and Utility Bill (C29-C30 of the Prima Facie Opinion).

The Committee also directed the office to forward the response so received from the Respondent to the Complainant Department to provide their comments thereon, if any within two (02) weeks thereafter. With this, the hearing in the case was part heard and adjourned.

7.6 On the day of the final hearing on 14th June 2024, the Committee noted that the Authorized representative of the Complainant Department and the Respondent was present before it through video conferencing. The Committee further noted that certain documents/information was sought from the Respondent at the time of last hearing held in the case on 17th May 2024. The Respondent vide email dated 30th May 2024 submitted his response with a copy to the Complainant Department. On being asked by the Committee, the Authorised Representative of the Complainant Department confirmed that he had nothing more to substantiate the charges alleged against the Respondent. Considering the facts and documents on record, the Committee decided

to conclude the hearing in the case. The decision on the conduct of the Respondent was kept reserved by the Committee. With this, hearing in the case was concluded and judgement / decision was reserved.

- 7.7 Thereafter, the Committee at its meeting held on 29th August 2024, advised the office to send a separate communication to the concerned ROC(s) with a copy to the office of DGCoA to provide a copy of the complete Investigation/Inquiry report so that the Committee can arrive at a logical conclusion in the said case. Accordingly, an email dated 9th September 2024 was sent to the Complainant Department. In response thereto, the Complainant Department vide email dated 12th September 2024 provided a copy of the Inquiry report in the instant case which was also shared with the Respondent vide email dated 13th September 2024 to provide his comments thereon, if any within 02 days of the receipt of the communication. However, no comments from the Respondent were received.
- 7.8 Thereafter, at its meeting held on 18th September 2024, the Committee based on the facts, documents and oral and written submissions on record, passed its judgment in the captioned matter.

8. FINDINGS OF THE COMMITTEE:-

- 8.1 The Committee noted that with regard to the only charge against the Respondent, that after examination of the documents filed by the Respondent on behalf of the Company during the incorporation and after physical verification of the registered office, it has been found that the Company does not appear to have any registered office as disclosed in its incorporation documents, the Committee noted that the Respondent certified the incorporation Form INC-32 (SPICE+) of the Company.
- 8.2 The Respondent in his defence, primarily, stated as under:
- a) He had personally visited the premise at the time of the incorporation of the Company. He had personally visited the office space and checked the space allotted to the Client i.e. Mr. Alok Saxena for which rent agreement and NOC was executed.
 - b) At the time of his visit, he noticed that there was no plate or board affixed with client name, because the Company was under incorporation at the time and the process was not yet completed. However, the documents required were duly executed by both the parties.
 - c) As regard the limitation on the size of Form SPICE Part B i.e. 6 MB as per MCA, the Respondent had compressed the document including Utility Bill which might be the reason the documents are not appearing as a legible document.
 - d) The Respondent had connected with the Director of the Company regarding the existence of their business, and the Director confirmed to him that the Company is currently operating at the address mentioned in the incorporation Forms. It has also been informed that anyone can visit the premises to verify the Company's documents and existence. The Company's name board is present at the address.
 - e) The Company is currently operating at their address, has a valid rent agreement which is duly renewed from time to time since incorporation.

8.3 In this regard the Committee noted that the purpose of filing Form INC-32 as per the Instruction Kit issued by MCA is as follows:

"Purpose of the Web Form

*Web form SPICe+ (INC-32) deals with the single application for reservation of name, incorporation of a new Company and/or application for allotment of DIN and/or application for PAN and TAN. This eForm is accompanied by supporting documents including details of Directors & subscribers, MoA and AoA etc. **Once the eForm is processed and found complete, Company would be registered, and CIN would be allocated. Also DINs gets issued to the proposed Directors who do not have a valid DIN....."** (emphasis added).*

8.4 The Committee further noted that the Complainant Department vide email dated 12th September 2024 brought on record a copy of the Inquiry report dated 24th January 2023 which have been submitted before the Regional Directorate. On perusal of the said Inquiry report, the Committee noted that in the said Inquiry Report the following had been concluded:

- a) Violation of Section 12 R/w Rule 25 of the Company's incorporation Rule, 2014 of the Companies Act, 2013.
- b) Violation of Section 173 and 166 of the Companies Act, 2013 for non-maintaining of gap of 120/180 day between two Board Meeting.
- c) Violation of Section 128/ R/w Rule 3(6) of the Companies (Accounts) Rule, 2014 for non-reporting of details of service providers (ZOHOBooks) in its financial statements for FY 2021-22.

8.5 Further, in the annexure to the said Inquiry Report wherein the summary of material facts with respect to the said Inquiry had been provided the following observations were made:

13.	Whether Company was found existing at the given address by the IO.	The Company was registered at the address Plot No. 76D Udyog Vihar 4, Phase-4, Sector 18 Gurgaon Haryana 122001 India and still claims to be maintaining its registered office at the same address. During the course of inquiry, physical verification at the said address was carried out on 12.01.2022. However, the office of the Company was not found, and no name plate was observed in a conspicuous position. No officials of the Company were observed on the said addresses during the physical verification.
18.	Whether the commonly known attributes of shell/suspected companies are present in this case.	Except for the non-maintenance of a registered office no other significant attributes was observed. However, the Company explained the reason behind

19 Finding of the IO/Registrar on the objective/Reasons and key issues for which this inquiry was ordered.

On perusal of submitted documents during the course of inquiry, it is observed that the Company was maintaining virtual premises as registered office of the Company and said premises were taken on lease basis from MYHQ.COM. The Company was not found to have affixed its name plate of the Company in terms sections 12 of the Companies, Act 2013 and no official of the Company was available at the time physical inspection of registered office of the Company. Copy of photograph taken by the inspection team at the registered office place and copy of leave and license agreement is attached as Annexure-E.

Further on examination on leave and license agreement submitted by the directors before the IO as a proof of registered office of the Company, It is found that the terms of the usage mentioned in the said agreement prohibit the use of the said premises as registered office of the business with ROC or Local Government. Hence, the Company failed to comply with the provisions related to maintenance of registered office of the Company as per section 12 R/w Rule 25 of the Companies (Incorporation) Rules, 2014.

2. During the recording of statement on oath by the Directors, they submitted that the Company's Books of Accounts were maintained on an "Accounting Package" from Upsourced Consulting Private Limited, a Kolkata based entity.
3. During the summons, the Directors submitted that GST registered and return filling facilities were availed from ZOHO Books, an online portal providing for book-keeping and record keeping services. Hence it is observed that the books and paper are being maintained by the Company electronically and same is accessible from any place. However, the

	Company failed to report the details of service provider (ZOHO Books) for maintaining book account in its financial statement for FY 2021-22. Hence the Directors violated the provisions of section 128(1) of the Companies Act, 2013 R/w Rule 3(6) of the Companies (Accounts) Rules, 2013.
21. Whether any fraudulent activities have been reported, if yes whether the registrar has recommended action for fraud.	No

- 8.6 The Committee noted that as per the Form INC-32(Spice +) certified by the Respondent on 15th March 2021, the following is shown as the Registered Office cum correspondence address of the company:

*"Plot No. 76D
Udyog Vihar 4,
Phase-4, Sector 18,
Gurgaon, Haryana,
India, 122001."*

Further, as per the MCA website, as on date, the same address is shown as the Registered Address of the Company.

- 8.7 The Committee further noted that the Respondent brought on record the copy of email communication by one of the directors of the Company in February 2021 with M/s Fume Co-working regarding getting the Company registered at their address. He also brought on record a copy of the No Objection Certificate dated 24th February 2021 issued by one of the directors of the said Company for getting Company registration and GST registration.
- 8.8 Further, the Respondent in his written submissions stated that the Rent Agreement between the company and M/s Fume Co-work is executed on 26th February 2021 with one year of validity. Further, point no. 13 in the rent agreement executed clearly mentioned that the Director can use the said property for commercial purpose only. Although in his written submissions, he stated that the copy of the same is part of the response, however, the same was not attached. Infact, the Respondent attached the copy of the leave and license Agreement dated 4th February 2022 which had been executed between the Company and the lessor M/s Fume Infotech Pvt. Ltd. On perusal of the same, the Committee noted the said agreement provided that the lessee desire to take the property on lease so as to use the said property as its registered office for a period of 12 months. Further, the following terms of the Usage in the said Agreement merit consideration:

"TERMS OF USAGE

The client may use the address for its business correspondence.

the Client is only permitted to use the Office Address as their Secondary Registration, only after taking prior permission from the lessor, provided client bears the responsibility for compliance with all the necessary provisions of the Companies Act / GST Laws etc. and hereby agrees to maintain the books of accounts at the space. Non-compliance with respect to non-maintenance of books of accounts shall be on the Client.

The client is not allowed to use this address as their primary registered office of the business with ROC or local Government bodies.

The Client can never avail any credit facility, whether relating to any loans or any other forms of credit line, on this address." (Empasis Added)

- 8.9 The Committee further noted that the Respondent also brought on record the copy of the subsequent leave and license Agreement dated 10th February 2023 (effective from 26th February 2023 to 25th February 2024) which had been executed between the Company and the lessor M/s Fume Infotech Pvt. Ltd. which specifically provided as under:

"Use as Registered Address:

Licensee shall be permitted to use the Office Space as their registered office address provided that the licensee shall bear the responsibility for compliance with the provisions of the applicable laws including but not limited to the Companies Act 2013, GST regulations, ESIC, EPF, PMLA, MSME etc."

Thus, the Committee observed that although the same premises were used as the registered office address of the company since its incorporation, however, there had been a change in the terms of usage of the said premises, to ensure compliance with the applicable laws.

- 8.10 The Committee also noted that in response to clarification sought from M/s Fume Infotech Pvt. Ltd., their Advocates vide letter dated 20th August 2022 informed as under:

"As per record provided by our client Fume In-fotech Private Limited, the lessee Meraki Products and services Private Limited has taken co-working space on lease w.e.f. 26th February 2022 to 25th February 2023. That the Copy of the agreement dated 04.03.2022 is attached as ANNEXURE A1.

My client has only allotted the Virtual Space just for the purposes above mentioned and nothing else."

- Also, a copy of duly signed and notarised leave and license Agreement dated 4th February 2022 effective from 26th February 2022 to 25th February 2023 and copy of bill dated 4th February 2022 raised by M/s Fume Infotech Pvt. Ltd. on the Company for 'co-working virtual address' had been annexed to the said communication.



3.11.1 The Committee also noted that Form INC-32(Spice +) had been certified by the Respondent on 15th March 2021. As per the Inquiry Report dated 24th January 2023 brought on record by the Complainant Department, the physical verification at the registered office of the company had been carried out on 12th January 2022. Also, in the said Inquiry Report, it was stated that the premises were taken on lease basis from 'MYHQ'.COM.

8.11.2 On perusal of the information available in public domain, the Committee noted that the Agency 'MYHQ' provided a one-stop workspace solution for all work-needs varying from pay-per-use plans to fixed desks for teams and individuals. Further, 'Fume Coworking' was associated with the said agency and provided coworking spaces. The leave and license Agreement(s) on record in the case which have been executed by the Company are with M/s Fume Infotech Pvt. Ltd. only.

8.12 Thus, on a combined reading of the Inquiry report together with the leave and license Agreement brought on record by the Respondent as a proof of registered office of the company, the Committee noted that the terms of the usage mentioned in the said Agreement prohibit the use of the said premises as primary registered office of the business with ROC or Local Government bodies. However, in the extant case, the same has been used for that purpose.

8.13 The Committee also observed that in the leave and license Agreement dated 4th February 2022 and 10th February 2023, the registered office address of the lessor was - Plot No. 76D, Phase-4, Udyog Vihar, Gurgaon, Haryana, 122001 which is the same as the property being let on lease to the company whereas as per ROC records, the said address was never the registered office address of the lessor.

8.14 Thus, the Committee noted that although the Company had obtained No Objection Certificate from the lessor dated 24th February to use the said premises for getting Company and GST registration the specific terms of lease and license Agreement did not allow Company to use the said premises as their primary registered office with ROC or local Government bodies.

8.15 The Committee also noted that the Form INC 32 certified by the Respondent specifically requires the certifying professional to declare as under:

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

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

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

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

(iv) I further declare that I **have personally visited the premises of the proposed registered office given in the form at the address mentioned herein above and verified that the said proposed registered office of the Company will be functioning for the business purposes of the Company** (wherever applicable in respect of the proposed registered office has been given).

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

Further, Section 12 of the Companies Act 2013 read with Rule 25 of Companies (Incorporation) Rules, 2014 provides that a company need to have physical registered office.

Thus, the Committee was of the view that the very purpose of having a registered office as contemplated in Section 12 of the Companies Act 2013 read with Rule 25 of Companies (Incorporation) Rules, 2014 was defeated. The Respondent being the certifying professional of Form INC 32(Spice+) with respect to incorporation of the Company was casual in his approach and merely relied upon the documents presented before him by the Company in respect of the said certification without any corroboration. The required diligence was not exercised by him while certifying Form INC 32(Spice+). Accordingly, the Committee held the Respondent Guilty in respect of the said charge.

8.16 While arriving at its Findings, the Committee also observed that in the background of the instant case the Complainant Department informed that the Company was registered with ROC, NCT of Delhi & Haryana by engaging dummy persons as subscribers to MOA & Directors by furnishing forged documents with falsified addresses / signatures, Director Identification Number (DIN) to MCA. Further, certain professionals in connivance with such individuals/directors/subscriber to MOA assisted in incorporation and running of these Companies for illegal/suspicious activities in violation of various laws by certifying e-forms/various reports etc. on MCA portal with false information concealing the real identities of such individuals. However, no evidence of the involvement of the Respondent to that effect had been brought on record by the Complainant Department. The role of the Respondent was limited to certification of Form INC-32 (SPICE+) of M/s Meraki Products and Services Private Limited which has been examined by the Committee.

8.17 In view of the above, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.



9. CONCLUSION:

9.1 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 given above	Paras 8.1 to 8.17 as given above	GUILTY - Item (7) of Part I of the Second Schedule

10. In view of the above observations, considering the oral and written submissions of the parties and material on record, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part-I of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-
(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

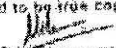
Sd/-
(MRS. RANI S NAIR, I.R.S. (RETD.))
GOVERNMENT NOMINEE

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

Sd/-
(CA. SANJAY KUMAR AGARWAL)
MEMBER

DATE: 12th November 2024
PLACE: New Delhi

सही प्रतिलिपि की गई है।
Certified to be true copy


श्री. प्रदीप कुमार शर्मा / श्री. प्रदीप कुमार शर्मा
अध्यक्ष, प्रशासनिक विभाग / Executive Officer
आयुक्त, प्रशासनिक विभाग / Additional Secretary
The Institute of Chartered Accountants of India
10/11/2024, New Delhi