

भारतीय सनदी लेखाकार संस्थान

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/290/2022/DD/202/2022/DC/1710/2023]

In the matter of:

Shri. Mangal Ram Meena,
Registrar of Companies,
NCT of Delhi & Haryana,
Ministry of Corporate Affairs,
4th Floor, IFCI Tower, -61, Nehru Place
New Delhi – 110 019

...Complainant

Versus

CA. Jai Kumar Mansharamani (M.No.073450)
19, DDA Flats, Neeti Bagh,
Opposite Ansal Plaza,
New Delhi – 110 049

...Respondent

MEMBERS PRESENT:

1. Shri Jiresh 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. Jai Kumar

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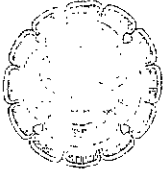
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Mansharamani (M.No.073450) (hereinafter referred to as the Respondent") is GUILTY of Professional and Other Misconduct falling within the meaning of Item (1) of Part II of Second Schedule and Item (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949.

2. That pursuant to the said Findings, an action under Section 21B(3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication was addressed to him thereby granting 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 the date of the hearing on 06/01/2025, the Respondent was present through video conferencing. During the hearing, the Respondent stated that he had already submitted his written representation dated 06/01/2025 on the Findings of the Committee in the matter. He submitted that although he had provided utility bills and No Objection Certificate to the Company for using a part of his office as registered office by the Company, however, he did not charge any rent for the same. All business operations of the Company were carried out from its office located at Noida and Respondent was not managing the affairs of the Company. He further submitted that independence of the auditor has not been compromised and self-interest threat, if any was duly mitigated. The Respondent further submitted that Conceptual Framework empowers the accounting professional to take decisions in terms of identification, evaluation and responding to threats or to apply safeguard to eliminate or reduce threat; and mitigation of risk is vested with the professional accountant. The Respondent has relied on his judgement to mitigate risks in the instant case and no evidence to the contrary is available. No irregularity or contravention had ever been pointed out by the Complainant in Audit Reports issued by the Respondent.

4. The Committee considered the reasoning as contained in Findings holding the Respondent 'Guilty' of Professional and Other Misconduct vis-à-vis written and verbal representation of the Respondent. The Committee noted that the issues/ submissions made by the Respondent as aforesaid have been dealt with by it at the time of hearing under Rule 18.



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5. 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 noted that the Counsel for the Respondent during the hearing stage had admitted that the Respondent had given part of his premise to the Company (M/s. Meghmausam Cafe Private Limited) for use as registered office and had also accepted the Statutory Audit of same Company concurrently. The Committee was of the view that a professional is not expected to give his premises for use as registered office for registration/ formation of Company and thereafter accept statutory audit assignment of the same Company which creates conflict of interest and directly affects his independence as an auditor of the Company. Further, there was nothing on record to show that the Respondent has taken measures to mitigate risks.

6. The Committee observed that the Respondent is liable for entering into business transaction with the auditee client by providing his premises and the circumstances as existed in the instant case also indicate the fact of infringement of provisions of Section of 141(3)(e) of the Companies Act, 2013. Further, the registered office of the Company from 01.07.2015 to 01.11.2019 was the premises of the Respondent and the act of acceptance of appointment as statutory auditor of the same Company by the Respondent during the same period when the registered office of Company being his premises, created self-interest threat leading to compromising his independence and despite that, the Respondent continued to act as Statutory Auditor of the Company continuously for four years i.e., F.Y. 2015-16 to F.Y. 2018-19. Hence, the Professional and Other 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.

7. 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 and Other Misconduct.

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8. Thus, the Committee ordered that the Respondent i.e. CA. Jai Kumar Mansharamani (M.No.073450), New Delhi be REPRIMANDED and also imposed a fine of Rs. 25,000/- (Twenty-Five thousand rupees only) upon him, which shall be paid within a period of 60 (sixty) days from the date of receipt of the Order.

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

प्रमाणित सत्य प्रतिलिपि / Certified True Copy

Approved

अंजू ग्रोवर / ANJU GROVER
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
भारतीय सनदी लेखाकार संस्थान
The Institute of Chartered Accountants of India
असतोम्यं सत्यं विजयते नरकः

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.

File No: [PR/G/290/2022/DD/202/2022/DC/1710/2023]

In the matter of:

**Shri. Mangal Ram Meena,
Registrar of Companies,
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...Complainant

Versus

**CA. Jai Kumar Mansharamani (M.No.073450)
19, DDA Flats, Neeti Bagh,
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New Delhi – 110 049**

...Respondent

MEMBERS PRESENT:

**CA. Ranjeet Kumar Agarwal, Presiding Officer (through VC)
Shri Jiweish Nandan, IAS (Retd.), Government Nominee (in person)
Ms. Dakshita Das, IRAS (Retd.), Government Nominee (in person)
CA. Mangesh P Kinare, Member (in person)
CA. Abhay Chhajed, Member (through VC)**

DATE OF FINAL HEARING : 29th July 2024

DATE OF DECISION : 21st August 2024

PARTIES PRESENT:

**Complainant : Mr. Gaurav, Dy. ROC – Authorized Representative of the
Complainant (through VC)**

Respondent : CA. Jai Kumar Mansharamani (through VC)

Counsel for Respondent : Advocate Arun Saxena (through VC)

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1. Background of the Case:

In the instant case, the Respondent facilitated in the incorporation of M/s. Meghmausam Cafe Private Limited (hereinafter referred to as the 'Company') and was later appointed as its Statutory Auditor.

2. Charges in brief:

- 2.1. The Respondent has furnished his utility bill for Registered Office of Company at the time of incorporation and later the Respondent was appointed Statutory Auditor of Company and was maintaining books of accounts of the Company in electronic form in his office till date, even after change of registered office (INC-22) was filed by the Company w.e.f. 01/11/2019. The Respondent being auditor of the Company had played vital role in certification and maintaining books of account of subject Company by concealing relevant information which seems to be used for illegal and suspicious activities with regards to maintenance of books of account of the Company. The Directors of the Company and the Respondent had made false declaration during the incorporation and declared its registered office address which belong to a private individual and were using this address without consent with fraudulent intentions.

3. The relevant issues discussed in the Prima Facie Opinion dated 10th November 2022 formulated by the Director (Discipline) in the matter, in brief, are given below:

- 3.1. The Respondent in his written statement had duly admitted that he had given NOC to the promoters to allow the part of the premises owned by him to be used as registered office for compliance purposes. Further, the Respondent had provided his Utility bill i.e., MTNL Telephone Bill dated 08.05.2015 for registration/ incorporation of the Company and the document was submitted along with E-form INC-29.
- 3.2. A professional is not expected to give his premises for use as registered office for registration/ formation of Company and thereafter accept Statutory Audit assignment of the said Company which creates conflict of interest and directly affects his independence as an auditor of the Company. The Respondent had audited the financial statements of the Company for the Financial Year 2015-16 to Financial Year 2018-19. The Respondent is liable for entering into business transaction with the auditee client by providing his premises during the period 01.07.2015 to 01.11.2019.

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3.3. The independence of the Respondent was compromised and there exists Self-interest threat and despite knowing such facts the Respondent continued to act as Statutory Auditor of the Company continuously for four years i.e. Financial Year 2015-16 to Financial Year 2018-19.

3.4. Accordingly, the Director (Discipline) in his Prima Facie Opinion dated 10th November 2022 opined that the Respondent was prima facie **Guilty** of Professional and Other Misconduct falling within the meaning of Item (1) of Part II of Second Schedule and Item (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949. The said items of the Schedule to the Act, states as under:

Item (2) of Part IV of the First Schedule:

"A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he:

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(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work."

Item (1) of Part II of the Second Schedule:

"A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he:

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(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council."

3.5. 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 prima facie **GUILTY** of Professional and Other Misconduct falling within the meaning of Item (1) of Part II of Second Schedule and Item (2) of Part IV of First 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.

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4. Dates of Written Submissions/ Pleadings by the 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	06 th June 2022
3.	Date of Rejoinder filed by the Complainant	Not filed
4.	Date of Prima Facie Opinion formed by Director (Discipline)	10 th November 2022
5.	Written Submissions filed by the Respondent after PFO	11 th March 2023
6.	Written Submissions filed by the Complainant after PFO	Not filed
7.	Written Submissions filed by the Respondent at Hearing stage	05 th August 2024

5. Written Submissions filed by the Respondent:

5.1 The Respondent, vide letter dated 11th March 2023 had, inter alia, made the submissions which are given as under –

- a) The Respondent had no monetary interest while providing the part of his premises to the subject Company.
- b) Neither there have been any irregularities pointed out in the Audit reports/ Financial Statements by the Complainant nor any evidence has been placed on record which shows that there is any violation/ contravention of any provisions applicable for issuance of audit report. Thus, it is apparent that the independence of the Auditor was not adversely affected.
- c) The Complainant has taken the approval of the Central Government for investigation of Companies managed by Chinese entities/ individuals/ investors, however, there have never been any foreign individuals/ entities involved as shareholders/ stakeholders/ Directors in the Company, which is apparent from the records of MCA, hence the Complaint and investigation itself lacks proper sanction/ approval and it should have been dismissed on this ground alone.
- d) The Respondent has never been involved in any unprofessional or unethical activities which may degrade his reputation or bring a bad name to the Profession.

- a) The registered office of the Company was only for the purposes of compliance and correspondence and all the records, accounts and business such as VAT/ service tax / GST registration/sale of products/ services were operated/ managed from the independent business location of the said Company situated at Sector 18, Noida, Uttar Pradesh.

6. Brief facts of the Proceedings:

Details of the hearing(s) fixed and held/ adjourned in the said matter are given as under –

Particulars	Date of Meeting(s)	Status
1 st Hearing	05 th June 2023	Part heard and adjourned.
2 nd Hearing	28 th May 2024	Deferred due to paucity of time.
3 rd Hearing	03 rd June 2024	Adjourned at the request of the Respondent.
4 th Hearing	20 th June 2024	Adjourned at the request of the Respondent.
5 th Hearing	29 th July 2024	Hearing concluded and judgment reserved.
---	21 st August 2024	Decision taken.

- 6.1 On the day of the first hearing on 05th June 2023, the Committee noted that the Complainant and Respondent were present through Video conferencing mode. Thereafter, they gave 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.
- 6.2 Being the 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 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. 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.
- 6.3 On the day of the hearing on 28th May 2024, consideration of the subject case was deferred by the Committee due to paucity of time.
- 6.4 On the dates of the hearing on 03rd June 2024 and 20th June, 2024, the Committee noted that the Respondent vide mail dated 03.06.2024 and 10/06/2024 respectively, had sought an adjournment(s) as his Counsel was not available on the date of hearing. Acceding to the request of the Respondent, the Committee adjourned the case to a future date.

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(Signature)

- 6.5 On the day of the final hearing on 29th July 2024, the Committee noted that the authorized representative of the Complainant and Respondent along with Counsel were present and appeared before it. The Committee noted that the Respondent was put on oath on 05.06.2023. The Committee also noted that the Respondent had filed a Written Statement dated 11th March 2023.
- 6.6 Thereafter, the Committee asked the Counsel for the Respondent to make submissions. The Committee noted the submissions of the Counsel for the Respondent which, inter alia, are given as under –
- a. It is an admitted fact that the Respondent had given part of his residential premise as Registered office address to the Company.
 - b. The Company carried out its business from its Noida premise and Respondent's address was given as the registered office address of the Company for compliance of the Registrar of Companies (ROC) and for correspondence purposes only.
 - c. The Respondent had given No Objection Certificate and utility bill for the purpose of registered office of the Company.
 - d. No lease/rent agreement was executed between the Respondent and the Company.
 - e. There was no monetary interest of the Respondent in the Company, and no money/rent was received from the Company for providing the premise as registered office address.
 - f. The Complainant and/ or any other authority had not reported any irregularity/ discrepancy in the Financial Statements audited by the Respondent.
 - g. There is no prohibition in law for providing premise for correspondence address purposes.
 - h. Independence of the Auditor had not been compromised.
 - i. The Respondent had successfully mitigated the threat while providing professional services as Statutory Auditor of the Company.
- 6.7 The Committee asked the authorised representative of the Complainant to make submissions. The authorized representative of the Complainant submitted that he had already provided all the documents related to this case and has nothing more to submit in this case and Committee may decide the case on merits.
- 6.8 Based on the documents/ material and information available on record and the oral and written submissions made by the parties, and on consideration of the facts of the case, the Committee concluded the hearing in subject case and judgement was reserved.

6.9 The Committee directed the Counsel for the Respondent to file written submissions (if any) within 07 days. As per directions of the Committee, the Respondent, vide letter dated 05th August 2024 had, inter alia, made the submissions which are given as under –

- a) The Respondent did not charge any fees or rent from the Company for providing his premises as registered office, this fact be established by the balance sheets of the Company itself. Therefore, the question of any self-interest/ conflict of interest on the part of the Respondent does not even arise.
- b) The Audit Reports prepared by the Respondent was based on actual documentation and accounts of the said Company and in accordance with Law.
- c) As per Code of ethics (11th edition) Section 100 (Introduction and Fundamental Principles), an accounting professional should identify the threats to compliance, if any, evaluate their significance and proceed by applying safeguards to eliminate/ mitigate the threats, if any, to an acceptable level.
- d) The Respondent has implemented appropriate safeguards and caution while performing the Statutory Audit of the Company.
- e) No irregularities have been pointed out by the Complainant in his audit reports/ Financial Statements.

6.10 Thereafter, on 21st August 2024, the subject case was fixed for taking decision. After detailed deliberations, and on consideration of the facts of the case, various documents on record as well as oral and written submissions made by the parties, the Committee took decision on the conduct of the Respondent.

7. Findings of the Committee:

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

7.1 The Committee noted that the charge against the Respondent is that he had provided Utility bill and No Objection Certificate (NOC) to the Company for use of his premises as registered office of the Company and later accepted appointment as Statutory Auditor of the same Company concurrently which developed conflict of interest and compromised independence as Statutory Auditor. The details of charge is given in para 2.1 above.

7.2 The Committee noted that the Counsel for the Respondent during the hearing had admitted that the Respondent had given part of his premise to the Company for use as registered office and had also accepted the Statutory Audit of same Company concurrently. Further, he

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submitted that no rent agreement was executed between the Respondent and the Company and there was no monetary interest of the Respondent in the Company.

- 7.3 The Committee noted that as per Code of Ethics (Reprinted May 2009, Page 3 to 4 and 28 to 31) provides as under: -

“Conceptual Framework Approach

100.5 The circumstances in which professional accountants operate may give rise to specific threats to compliance with the fundamental principles. It is impossible to define every situation that creates such threats and specify the appropriate mitigating action. In addition, the nature of engagements and work assignments may differ and consequently different threats may exist, requiring the application of different safeguards. A conceptual framework that requires a professional accountant to identify, evaluate and address threats to compliance with the fundamental principles, rather than merely comply with a set of specific rules which may be arbitrary, is, therefore, in the public interest. This Code provides a framework to assist a professional accountant to identify, evaluate and respond to threats to compliance with the fundamental principles. If identified threats are other than clearly insignificant, a professional accountant should, where appropriate, apply safeguards to eliminate the threats or reduce them to an acceptable level, such that compliance with the fundamental principles is not compromised.”

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100.7 A professional accountant should take qualitative as well as quantitative factors into account when considering the significance of a threat. If a professional accountant cannot implement appropriate safeguards, the professional accountant should decline or discontinue the specific professional service involved, or where necessary resign from the client (in the case of a professional accountant in public practice) or the employing organization (in the case of a professional accountant in service).

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“Threats and Safeguards

100.9 Compliance with the fundamental principles may potentially be threatened by a broad range of circumstances. Many threats fall into the following categories:

- (a) Self-interest threats, which may occur as a result of the financial or other interests of a professional accountant or of a relative;**
- (b) Self-review threats, which may occur when a previous judgment needs to be re-evaluated by the professional accountant responsible for that judgment;**
- (c) Advocacy threats, which may occur when a professional accountant promotes a position or opinion to the point that subsequent objectivity may be compromised;**
- (d) Familiarity threats, which may occur when, because of a relationship, a professional accountant becomes too sympathetic to the interests of others; and**
- (e) Intimidation threats, which may occur when a professional accountant may be deterred from acting objectively by threats, actual or perceived.”**

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“Section 280

Objectivity—All Services

280.1 A professional accountant in public practice should consider when providing any professional service whether there are threats to compliance with the fundamental principle of objectivity resulting from having interests in, or relationships with, a client or directors, officers or employees. For example, a familiarity threat to objectivity may be created from a personal or business relationship.

280.2 A professional accountant in public practice who provides an assurance service **is required to be independent of the assurance client. Independence of mind and in appearance is necessary to enable the professional accountant in public practice to express a conclusion, and be seen to express a conclusion, without bias, conflict of interest or undue influence of others.** Section 290 provides specific guidance on independence requirements for professional accountants in public practice when performing an assurance engagement.

280.3 The existence of threats to objectivity when providing any professional service will depend upon the **particular circumstances of the engagement** and the nature of the work that the professional accountant in public practice is performing.

280.4 **A professional accountant in public practice should evaluate the significance of identified threats and, if they are other than clearly insignificant, safeguards should be considered and applied as necessary to eliminate them or reduce them to an acceptable level.** Such safeguards may include:

- Withdrawing from the engagement team.*
- Supervisory procedures.*
- Terminating the financial or business relationship giving rise to the threat.*
- Discussing the issue with higher levels of management within the firm.*
- Discussing the issue with those charged with governance of the client.”*

“Section 290

Independence—Assurance Engagements

290.1 In the case of an assurance engagement it is in the public interest and, therefore, required by this Code of Ethics, that members of assurance teams, firms and, when applicable, network firms be independent of assurance clients.

290.8 **Independence requires:**

Independence of Mind

The state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment, allowing an individual to act with integrity, and exercise objectivity and professional skepticism.

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Independence in Appearance

The avoidance of facts and circumstances that are so significant that a reasonable and informed third party, having knowledge of all relevant information, including safeguards applied, would reasonably conclude a firm's, or a member of the assurance team's, integrity, objectivity or professional scepticism had been compromised."

- 7.4 The Committee further noted that as per Guidance Note on Independence of Auditors (Reprint June 2012 – Page No. 6) –

"2. Threat to Independence

2.1 The Code of Ethics for Professional Accountants, prepared by the International Federation of Accountants (IFAC) identifies five types of threats. These are:

Self-Interest threats, which occur when an auditing firm, its partner or associate could benefit from a financial interest in an audit client. Examples include (i) direct financial interest or materially significant indirect financial interest in a client.....(iv) close business relationship with an audit client....."

- 7.5 Upon looking at the association of the Respondent being auditor in the Company, the Committee noted that the auditor should act independently while forming an opinion on the financial statements of the Company without being effected/involved in the influences which might compromise his independence. With respect to the Independence of Auditor, the "Guidance Note on Independence of Auditors" issued by ICAI further provides that:

"Independence of the auditor has not only to exist in fact, but also appear to so exist to all reasonable persons. The relationship between the auditor and his client should be such that firstly, he is himself satisfied about his independence and secondly, no unbiased person would be forced to the conclusion that, on an objective assessment of the circumstances, there is likely to be an abridgement of the auditors' independence.

In all phases of a Chartered Accountant's work, he is expected to be independent, but in particular in his work as auditor, independence has a special meaning and significance. Not only the client but also the stakeholders, prospective investors, bankers and government agencies rely upon the accounts of an enterprise when they are audited by a Chartered Accountant."

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- 7.6 The Committee noted the submissions of the Counsel for Respondent in regard to application of safeguards to mitigate threats, that he had given his premises (in Delhi) to the Company only for correspondence purposes and no activity of the Company was undertaken at his premises. The Counsel for Respondent further submitted that all the activities of the Company were undertaken at office of the Company at Noida and he had issued the audit report(s) after following due process and verification of all records. He added that for practical purposes, the office of the Company at Noida was maintained as registered office of the Company. Noting the submission of the Counsel for the Respondent, that the office of the Company at Noida was maintained as registered office, the Committee failed to understand as to how the activities of the registered office could be undertaken from another office of the Company, which itself was not acceptable. The Committee did not accept the submissions of the Counsel for Respondent that these measures were sufficient to mitigate the threats to independence of auditor. The Committee was further of the view that mere non-charging of rent by the Respondent for giving his premises to the Company cannot be accepted as an act of maintaining independence as auditor; and that the possibility of receipt of favour/recompense in cash or in kind by the Respondent cannot be ruled out.
- 7.7. Keeping in view the provisions as discussed above, the Committee was of the view that a professional is not expected to give his premises for use as registered office for registration/formation of Company and thereafter accept statutory audit assignment of the same Company which creates conflict of interest and directly affects his independence as an auditor of the Company. The Committee viewed that the Respondent has not given adequate explanation for giving his premises to be used as registered office address of the Company; and thereafter accepting the statutory audit assignment of the same Company. The Committee was unable to appreciate the fact as to why a professional would allow to use his premise as registered office address of the Company and that too without any consideration, and later accepting the statutory audit assignment of the same Company. The Committee therefore viewed that the inescapable conclusion is that the Respondent is liable for entering into business transaction with the auditee client by providing his premises. The Committee, in this regard, also perused the provisions of Section 141(3)(e) of the Companies Act, 2013 dealing with disqualification from becoming an auditor on account of business relationships. Looking into overall facts, the Committee observed that the circumstances as existed in the instant case also indicate the fact of infringement of provisions of Section of 141(3)(e) of the Companies Act, 2013.

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- 7.8. Thereafter, on perusal of documents on record, it is observed by the Committee that the Respondent has audited the financial statements of the Company for the Financial Year 2015-16 (i.e., from the inception of the Company) till Financial Year 2018-19 and has resigned thereafter on 18.09.2020 and filed Form No. ADT-3 with Registrar of Companies/ MCA. In view of this, the Committee opined that the Respondent had facilitated in incorporation of alleged Company by providing NOC to permit part of his premises for being used as Registered Office address and also assisted in Annual Compliances of the Company by being Statutory Auditor of the Company appointed under Section 139 of the Companies Act, 2013 since inception and further issued Independent Auditor's Report for the Company. The Committee was of the view that a member is expected to interpret the requirement regarding independence much more strictly than what the law required and he should not place himself in a compromising situation or in that which jeopardised his independence.
- 7.9. The Committee noted that the registered office of the Company from 01.07.2015 to 01.11.2019 was the premises of the Respondent and the act of acceptance of appointment as statutory auditor of the same Company by the Respondent during the same period when the registered office of Company being his premises, had compromised his independence.
- 7.10. In view of the above, the Committee was of the view that the independence of the Respondent was compromised and there existed self-interest threat and despite that, the Respondent continued to act as Statutory Auditor of the Company continuously for four years i.e., F.Y. 2015-16 to F.Y. 2018-19. Such an act of the Respondent was unbecoming of a Chartered Accountant, and it has also brought disrepute to the profession.
- 7.11. In view of the above facts and based on the documents / material and information available on record and after considering the oral and written submissions made by the Complainant and the Respondent, the Committee was of the view that the Respondent was **GUILTY** of Professional and Other Misconduct falling within the meaning of Item (1) of Part II of Second Schedule and Item (2) of Part IV of First 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:

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Charges (as per PFO)	Findings	Decision of the Committee
Para 2.1 as above.	Para 7.1 to 7.11 as above.	GUILTY - as per Item (1) of Part II of Second Schedule and Item (2) of Part IV of First Schedule.

9. In view of the above observations, considering the oral and written submissions of the Complainant and the Respondent and material on record, the Committee held the Respondent **GUILTY** of Professional and Other Misconduct falling within the meaning of Item (1) of Part II of Second Schedule and Item (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949.

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

Sd/-
(SHRI JIWESH NANDAN, IAS {RETD.})
GOVERNMENT NOMINEE

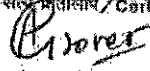
Sd/-
(MS. DAKSHITA DAS, IRAS {RETD.})
GOVERNMENT NOMINEE

Sd/-
(CA. MANGESH P KINARE)
MEMBER

Sd/-
(CA. ABHAY CHHAJED)
MEMBER

DATE: 04/12/2024
PLACE: New Delhi

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श्री. अंजु गровер / ANJU GROVER
सहायक सचिव / Assistant Secretary
अनुशासनिक विभाग / Discipline Directorate
भारतीय राजकीय लेखाकार संस्थान
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