



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

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

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

ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.

File No: [PR/G/295/2022/DD/345/2022/DC/1708/2023]

In the matter of:

Ms. Kamna Sharma

Deputy Registrar of Companies

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. Sanjay Kochhar (M. No. 085262)

84, Anand Lok,

Khel Gaon Marg,

New Delhi – 110 049

...Respondent

MEMBERS PRESENT:

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

DATE OF HEARING : 20th January 2025

DATE OF ORDER : 04th February 2025

1. That vide Findings dated 16.10.2024 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. Sanjay Kochhar (M. No. 085262)** (hereinafter referred to as the **Respondent**) is **GUILTY** of Professional



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Misconduct falling within the meaning of Item (7) of Part (I) of the Second Schedule to the Chartered Accountants Act, 1949.

2. That pursuant to the said Findings, an action under Section 21B(3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and communication(s) were addressed to him thereby granting opportunities of being heard in person/ through video conferencing and to make representation before the Committee on 11.12.2024, 06.01.2025 and 20.01.2025.

3. The Committee noted that this case was fixed before it for award of punishment under Rule 19(1) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The Committee also noted that the Respondent neither had filed any written representation on the findings of the Committee in captioned case nor he had appeared before it despite the fact that he was specifically informed through notice for hearing dated 20/01/2025 that in case of his non-appearance, the matter would be decided ex-parte. Moreover, the Committee observed that this case was fixed five times before it for hearing(s) under Rule 18 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, however, the Respondent neither appeared before it, nor he filed any written submissions, and the Committee had decided the matter ex-parte at Rule 18 of aforesaid Rules.

4. In view of above facts, the Committee decided that there was no need of granting any more opportunity to the Respondent. Therefore, the Committee proceed with the conduct of the hearing ex-parte, in the absence of the Respondent, on the basis of documents/ material available on record.

5. The Committee considered the reasoning as contained in the Findings holding the Respondent 'Guilty' of Professional Misconduct. Keeping in view the facts and circumstances of the case and material on record, the Committee noted that the Respondent has certified Form 32 wherein it is given/declared that the Directors of the Company are not disqualified to become the Directors of the Company, however, he had failed to substantiate the basis of the said



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declaration of non-qualification of the Directors. The Respondent also failed to provide the copy of such declaration, which was specifically called for by the Director (Discipline) under Rule 8(5) of aforesaid Rules. Moreover, he had not filed written statement in order to defend the allegations at Prima Facie Stage also. Thus, it is evident that there was no such declaration given by the Directors to the Company and the Respondent has certified the said Form 32 without having seen such declaration and without having any documentary evidence with him.

6. Hence, the Professional Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 16th October 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 Misconduct.

8. Thus, the Committee ordered that the Respondent i.e., CA. Sanjay Kochhar (M. No. 085262), New Delhi be REPRIMANDED, under Section 21B(3)(a) of the Chartered Accountants Act, 1949.


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

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

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

Sd/-
(CA. MANGESH P KINARE)
MEMBER

Sd/-
(CA. ABHAY CHHAJED)
MEMBER

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

अरुण कुमार / Arun Kumar
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, (ICAI Bhawan), 282, Connaught Place, दिल्ली-110032
ICAI (Bhawan), 282, Connaught Place, दिल्ली-110032

CONFIDENTIAL

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

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

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

File No: [PR/G/295/2022/DD/345/2022/DC/1708/2023]

In the matter of:

Ms. Kamna Sharma
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Shri Jiwesh Nandan, IAS (Retd.), Government Nominee (in person)
Ms. Dakshita Das, IRAS (Retd.), Government Nominee (through VC)
CA. Mangesh P Kinare, Member (in person)

DATE OF FINAL HEARING : 15th July 2024

PARTIES PRESENT : None

1. Background of the Case:

- 1.1. In the instant case, the Respondent had certified the incorporation documents such as Form 1, Form 18 and Form 32 of M/s. Gfive International (India) Private Limited (hereinafter referred to as the 'Company').

2. Charges in brief:

- 2.1 The Respondent had certified Form 32 on 22/06/2010 [appointment of Director(s)] and no document (consent/declaration by the Director) had been attached with said Form. The Respondent, being the certifying professional has furnished and filed forged / false documents

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/details, or no documents attached for the registered office of the Company.

3. The relevant issues discussed in the Prima Facie Opinion dated 18th November 2022 formulated by the Director (Discipline) in the matter, in brief, are given below:

3.1. It was noted that Form 32 was certified by the Respondent on 22.06.2010. The Respondent being the certifying professional of Form 32 had certified the verification (under point 2. of the verification) that:

"It is hereby confirmed that the appointed director(s) whose particulars are given below has given a declaration in writing to the Company that he/she is not restrained / disqualified / removed of, for being appointed as directors of a company under the provisions of the Companies Act, 1956 including sections 203, 274 and 388E of the said Act."

3.2. From the above, it was clear that the Respondent had certified the declaration of the Directors of the Company that they are not disqualified to become the Directors of the Company as available on the records of the Company. It was noted that though the Respondent was not mandatorily required to attach the said declaration with the Form 32 certified by him, however, when the Respondent was specifically asked by this Directorate at Rule 8(5) stage, to provide copy of "the declaration given by the Directors of the Company stating that he / she is not disqualified to become as the Director of the Company" as certified by you in Form 32", to substantiate that the Respondent has certified Form 32 on the basis of the said declaration of the Directors, he has failed to provide the same. Thus, it appeared that there was no such declaration given by the Directors to the Company and the Respondent had certified the said Form 32 without having seen such declaration and without having any documentary evidence in his hand in this regard.

3.3. Considering the above and documents available on record, it was viewed that the Respondent was negligent and did not exercise the required due diligence while performing his professional duties. Even the Respondent has been very casual in responding to this directorate as he firstly failed to submit his Written Statement in the instant matter and secondly, he has not even replied to the letter calling additional documents sent under Rule 8(5) stage.

3.4. Accordingly, the Director (Discipline) in his Prima Facie Opinion dated 18th November 2022 opined that the Respondent was *prima facie* **Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

The said item of the Schedule to the Act, states as under:

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

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

X X X X X

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

- 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 **GUILTY** of Professional Misconduct falling within meaning of Item (7) of Part I of 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. **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	---
3.	Date of Prima Facie Opinion formed by Director (Discipline)	18 th November 2022
4.	Written Submissions filed by the Respondent after PFO	---

5. **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	Adjourned in the absence of the Respondent.
2 nd Hearing	10 th April 2024	Adjourned in the absence of the Respondent.
3 rd Hearing	17 th May 2024	Adjourned in the absence of the Respondent.
4 th Hearing	18 th June 2024	Adjourned in the absence of the Respondent.
5 th Hearing	15 th July 2024	Hearing Concluded and Decision taken.

- 5.1 On the day of first hearing on 05th June 2023, the office apprised the Committee that the Respondent was not present and notice of listing of the case has been served upon him. Being this case fixed for the first time for hearing, the Committee adjourned the case to a future date with a view to extend one more opportunity to the Respondent to defend the charges.
- 5.2 On the day of the hearing on 10th April 2024, the Committee noted that neither the Complainant nor the Respondent was present for the hearing and notice of listing of the case have been served upon them. The Committee adjourned the case to a future date with a view to extending one final opportunity to the Complainant and the Respondent to substantiate/ defend the charges.
- 5.3 On the day of the hearing on 17th May 2024, the Committee noted that the Respondent was not present for the hearing and notice of listing of the case have been served upon them. The Committee adjourned the case to a future date with a view to extending one final opportunity to the Respondent to defend the charges.
- 5.4 On the day of the hearing on 18th June 2024, the Committee noted that the Respondent was not present for the hearing and notice of listing of the case has been served upon him. The Committee adjourned the case to a future date with a view to extend one final and last opportunity to the Respondent to defend the charges. The Committee directed the office to inform the Respondent to appear before it at the time of next listing and in case of his failure to appear, the matter would be decided ex-parte based upon the documents and materials available on record.
- 5.5 On the day of the final hearing on 15th July 2024, the Committee noted that no party to the case was present and notice of listing of the case have been served upon them. The Committee noted that this case was listed for hearing for the fifth time and the same was adjourned due to non – appearance of the Respondent. The Committee further noted that the Respondent was duly informed through notice(s)/email(s) that in his absence, the case would be decided ex-parte, the Respondent. However, the Respondent neither appeared before the Committee nor submitted any written statement in his defense on the Prima Facie Opinion. Further, the office apprised the Committee that the Respondent had not submitted his written statement at Prima Facie stage in spite of reminder and he also failed to provide additional documents called for by the Director (Discipline) in terms of Rule 8(5) of The Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
- 5.6 In view of above noted facts, the Committee decided to proceed ex-parte, as sufficient opportunities had already been granted to the parties to defend/substantiate the charges.

5.7 Based on the Prima Facie Opinion formed by Director (Discipline) and documents/ material available on record, and on consideration of the facts of the case, the Committee concluded the hearing in the subject case and decided on the conduct of the Respondent.

6. Findings of the Committee:

The Committee noted the background of the case as well as documents/ material on record and gives its findings as under: -

6.1. The Committee observed that this case was fixed five times before it for hearing(s), however, the Respondent did not appear single time before it, nor he filed any written submissions in captioned case despite the fact that he was specifically informed that in case of his non-appearance, the matter would be decided ex-parte. In view of this, the Committee noted that sub-rule (18) of Rule 18 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 states that the adjournment shall be granted by the Committee at the request of any of the parties, provided that such adjournment shall be not given more than once. However, in the present case, the Committee observed that Respondent did not appear, even on single occasion before it, despite grant of sufficient opportunities to him. The Committee also noted that the Respondent has also not communicated in any manner whether he wants to appear in person in the proceedings. In view of the fact that the notice for the hearing was served to the Respondent on five occasions without any response from the Respondent and so in compliance with the Rules as narrated above, which provide for the grant of only one adjournment, the Committee was of the view that there is no need of granting any more opportunity to the Respondent and so the Committee decided to proceed with the conduct of the hearing ex-parte, in the absence of the Respondent, on the basis of documents/ material available on record.

6.2. Thereafter, the Committee observed that there is no other document on record before it except the prima facie opinion of the Director (Discipline) dated 18th November 2022 including complaint in Form "I" of the Complainant dated 15th March, 2022.

6.3. The Committee considered the documents/material available on record. The Committee was of the considered view that the Respondent has not filed any written submissions /documents at Prima Facie stage and further written statement after prima facie opinion and thus, non-filing of written submissions to defend the charges contained in Form – I and prima facie opinion construed that the Respondent has agreed with the reasonings given in prima facie opinion of Director (Discipline) holding 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.

6.4. In the absence of written submissions/documents from the parties to the case, the Committee concurred with the reasoning(s) given against the Charge(s) as contained in prima facie opinion of Director (Discipline), which are reproduced herein below:-

"The Respondent has certified that the declaration of the Directors of the Company that they are not disqualified to become the Directors of the Company are available in the records of the Company. Though, the Respondent was not mandatorily required to attach the said declaration with the Form 32 certified by him, however, when the Respondent was specifically asked by this Directorate at Rule 8(5) stage, to provide copy of "the declaration given by the Directors of the Company stating that he / she is not disqualified to become as the Director of the Company" as certified by you in Form 32", to substantiate that the Respondent has certified Form 32 on the basis of the said declaration of the Directors, he has failed to provide the same. Thus, it appears that there was no such declaration given by the Directors to the Company and the Respondent has certified the said Form 32 without having seen such declaration and without having any documentary evidence in his hand in this regard. Hence, this shows / indicates negligence on the part of the Respondent being the certifying professional, wherein he has certified Form 32 with incorrect and misleading declaration. Accordingly, in view of the reasoning given above and documents available on record, it is viewed that the Respondent was negligent and did not exercise required due diligence while performing his professional duties. Even the Respondent has been very casual in responding to this directorate as he firstly failed to submit his Written Statement in the instant matter and secondly, he has not even replied to the letter calling additional documents sent under Rule 8(5) stage. Thus, it is viewed no benefit can be extended to the Respondent at prima facie stage in the instant matter. Accordingly, the Respondent is held *prima facie* **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949".

6.5 After considering the above, the Committee felt that ample opportunities were granted to the Respondent to defend the charges, but he failed to appear before it and also did not file any submission to defend the charges contained in prima facie opinion. Thus, the Committee decided to accept the reasonings given against the charge(s) holding the Respondent **GUILTY** of Professional Misconduct in Prima Facie Opinion of the Director (Discipline).

6.6 The Committee, considering the above facts, was of the considered view that the Respondent had not performed his professional duties diligently. Hence, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.

7. **Conclusion:**

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

Charges (as per PFO)	Findings	Decision of the Committee
Para 2.1 as above.	Para 6.1 to 6.6 as above.	GUILTY- Item (7) of Part I of the Second Schedule.

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

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

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

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

Sd/-
(CA. MANGESH P KINARE)
MEMBER

DATE: 16/10/2024
PLACE: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित /
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मीनू गुप्ता / Meenu Gupta
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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