



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.

[PR/G/131/22-DD/119/2022/DC/1729/2023]

In the matter of:

Ms. V. Annapoorna,

Deputy Registrar of Companies, Karnataka,

Ministry of Corporate Affairs,

Office of the Registrar of Companies,

Kendriya Sadan, 2nd Floor, E-Wing,

Koramangala,

Bengaluru – 560034

.... Complainant

Versus

CA. Himanshu (M. No.555868)

H. No.516-A,

Adarsh Nagar, Dhand Road,

Kaithal – 136027

....Respondent

MEMBERS PRESENT:

1. CA. Ranjeet Kumar Agarwal, Presiding Officer (In person)
2. Shri Jiweh 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 10.10.2024 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. Himanshu (M. No.555868)** (hereinafter referred to as the **Respondent**) is **GUILTY** of



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Professional 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 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 20th January 2025.

3. The Committee noted that on the date of hearing on 20th January 2025, the Respondent was present through video conferencing. Thereafter, the Committee asked the Respondent to make submissions in the matter. The Respondent stated that he had already submitted his written representation dated 13th November 2024 on the Findings of the Committee and has no further submissions. The Committee also noted the written representation of the Respondent dated 13th November 2024 on the Findings of the Committee, which, inter alia, are given as under:-

(a) Form DIR 2 was attached with the Spice+ Form INC-32 under the head 'Optional attachment(s), (if any)' in list of attachments.

(b) As the Company was registered under the second wave of Covid-19, it was not possible for the Respondent to physically visit the registered office.

(c) He relied upon CS Diksha Makhija who had verified the incorporation documents such as electricity bills and No objection certificates of both Companies.

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.



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5. Thus, keeping in view the facts and circumstances of the case, material on record including written/verbal representation of the Respondent on the Findings, the Committee noted that the Respondent had relied upon the verification done by the other professional and had certified the SPICe+ Form(s) INC-32 without personally visiting and verifying the registered office of the Company as admitted by him during the hearing before it. The Committee also noted that Form(s) DIR – 2 were not attached with SPICe+ Form INC -32 as per the requirements given in Technical Guide issued by ICAI and relevant provisions of the Companies act, 2013 and was of the view that Form(s) DIR-2, i.e., Consent to act as Director, in respect of both first Directors of both Companies i.e. M/s Asunto Technology Private limited and M/s Smackfree Technology Private Limited was required to be attached to Spice+ Form INC-32 as a mandatory attachment to the Form.

6. In written submissions dated 13/11/2024, the Respondent has submitted that Form(s) DIR – 2 were attached as optional attachments, however, the Committee was of the view that when there is specific column (at S. No. 03) i.e. declaration by first Subscribers and Directors, then same should have been given/referred in this column. Further, the Respondent has taken the plea of attaching the Form(s) DIR-2 as an optional attachment for the first time at the stage of Rule 19(1) of aforesaid Rules. Moreover, the Respondent did not bring on record any documentary evidence to show that the Forms DIR-2 were attached with Spice+ Form(s) INC-32. Thus, it indicates that the Respondent acted negligently while verifying the relevant documents, which were essential for incorporating the Company.

7. Hence, the Professional Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 10th October 2024 which is to be read in consonance with the instant Order being passed in the case.

8. 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.

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9. Thus, the Committee ordered that the Respondent i.e., CA. Himanshu (M. No.555868), Kaithal 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

प्रमाणित सत्य प्रतिलिपि / Certified True Copy

Anju Grover

अंजू ग्रोवर / ANJU GROVER
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
भारतीय सनदी लेखाकार संस्थान
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110022
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110022

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/131/22-DD/119/2022/DC/1729/2023]

In the matter of:

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..... Respondent

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

DATE OF FINAL HEARING : 17th May 2024

PARTIES PRESENT:

Complainant : Mr. S Krishnakumar, Assistant ROC Bangalore (Authorised Representative of the Complainant) (Through VC)

Respondent : CA. Himanshu (Through VC)

1. **Background of the Case: -**

- 1.1. It has come to the knowledge of the Central Government that many companies are incorporated at the behest of Chinese national for doing illegal and unauthorized business in India.
- 1.2. The Registrar of Companies, Bangalore under the directions of Ministry of Corporate Affairs, conducted enquiry under Section 206(4) of Companies Act, 2013 into the affairs of various companies/Individuals and the concerned professionals which included M/s Asunto Technology Private Limited and M/s Smack Free Technology Private Limited in the extant case.
The following 2 companies were alleged to be incorporated by the Respondent:-
- a) M/s. Asunto Technology Private Limited
 - b) M/s. Smackfree Technology Private Limited.
- 1.3. The Respondent had certified e-Form 'SPICE+ INC-32', 'e-AOA' and 'e-MOA', in respect of above mentioned Companies.

2. **Charges in brief:**

- 2.1. On physical verification by Complainant Department, M/s. Smackfree Technology Private Limited was not available in given address and in case of M/s. Asunto Technology Private Limited, the registered office given was a co-workplace.
- 2.2. Form 'DIR-2' was not attached to SPICE+ Form INC-32, to show that the persons whose names were appearing as Directors of the Company in SPICE+ 'Form INC-32' had given their consent to become Directors of the company.
- 2.3. The Respondent failed to verify the ownership papers/authorization documents from the owner of the property.

3. **The relevant issues discussed in the Prima facie opinion dated 29th August, 2022 formulated by the Director (Discipline) in the matter in brief, are given below: -**

- 3.1. In respect of first allegation relating to the facilitation in incorporation of 2 companies despite knowing that the documents were fabricated / fake, the Respondent certified eForm SPICE+ (e-filing date 27.05.2021 & 24.05.2021) and e-AOA and e-MOA related to incorporation of both the companies.
- 3.2. On perusal of Incorporation form (SPICE+) certified by the Respondent, it was noted that the said form contained details of name of the Company, activity of the Company, share capital, address of the Company, subscribers, directors details, DIN, equity shares subscribed, stamp duty paid and details of attachments. It was also noted that as attachments to the said form,

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copy of the utility bills, proof of identity & residential address of subscribers and one optional attachment was attached. The said form was digitally signed by a person named in the article as a director of the Company and by the Respondent as professional.

- 3.3. The Respondent relied upon the other professionals for the work of verification (CS. Diksha Makhija and CS. Shashank Jain) of original documents and other records. There was nothing on record to show that the subscribers/ directors have signed the MOA/ AOA in presence of the Respondent who signed the SPICe+ AOA/ MOA as witness to the said forms.
- 3.4. The Respondent had not visited the registered office of either of the Company but the Respondent while certifying SPICe+ declared that he had personally visited the premises of the proposed registered office given in the incorporation form. The Respondent had given false / incorrect declaration in incorporation forms. A common address- 1207/343 & 1207/1/343/1, above HDFC Bank, 9th Main, 7th Sector, HSR Layout, Bangalore were used for incorporation of both the afore-stated companies for which the Respondent does not appear to have expressed any concern on the same. It was also noted that the same address was also used as registered office for incorporation of 6 companies including afore-stated 2 companies. Hence, it appeared that companies have given same address for their registered office and the same indicates that companies incorporated are either paper companies or Shell companies.
- 3.5. Hence, the Respondent failed to exercise due diligence while certifying the incorporation forms of the Companies. However, there was nothing on record to establish any malafide on the part of the Respondent or his connivance with the Chinese Nationals or directors of the subject Companies. Thus, 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.
- 3.6. In respect of second leg of the first allegation relating to non-filing of DIR-2, it is observed that paragraph 4.4.4 STEP 4 - SPICe+ Part B of "Technical Guide for Easy Incorporation of Companies Through SPICe+" issued by Institute (Edition July, 2020) states that "...the particulars of the interests of the first directors of the company in other firms or bodies corporate along with their consent to act as directors of the company in such form and manner as may be prescribed" to be filed as mandatory attachment with incorporation form. Regarding this requirement, it is observed that the Respondent failed to bring on record any documentary evidence to establish that DIR-2 was filed with SPICe+ Form. Thus, 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

3.7. The lease agreements were not signed by any witness and the amount of rent / lease to be paid monthly or yearly were also not mentioned in the lease agreement(s) which should have created doubt in mind of the Respondent on the authenticity of the documents. Hence, in view of the fact that Respondent could not verify the premises physically before certifying incorporation forms, the Respondent was required to be more cautious and vigilant and must have verified proof of ownership in name of the lessor apart from verifying Utility bills, NOC and validity of lease agreement but the Respondent failed to do so. Accordingly, it could be stated that the Respondent failed to exercise due diligence while verifying lease agreements and also failed to verify ownership documents in respect of both the companies. Thus, the Respondent was prima facie Guilty with respect to this allegation, falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

3.8. The Director (Discipline) in his Prima Facie Opinion dated 29th August 2022 opined that the Respondent was prima facie **Guilty** of Professional Misconduct falling within the meaning of Item (7) Part-I of the Second Schedule to the Chartered Accountants Act, 1949. The said items 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:

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

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

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

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



S.No.	Particulars	Dated
1.	Date of Complaint in Form '1' filed by the Complainant	27 th January 2022
2.	Date of Written Statement filed by the Respondent	18 th April 2022
3.	Date of Rejoinder filed by the Complainant	---
4.	Date of Prima Facie Opinion formed by Director (Discipline)	29 th August 2022
5.	Written Submissions filed by the Respondent after PFO	23 rd May 2023
6.	Written Submissions filed by the Complainant after PFO	---

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

The Respondent vide letter dated 23rd May 2023, inter-alia, made the submission which are given as under:-

- (i) The certification part was done by using his digital signature in both the Companies named as *M/s Asunto Technology Private Limited and M/s Smackfree Technology Private Limited* for which CS Diksha Makhija apprised him about the lead she got from CS Shashank Jain for certification of Spice+ Form-INC 32, MOA, and AOA of above Companies.
- (ii) CS Diksha Makhija had verified the documents in soft copy such as Electricity Bill & NOC etc. The Respondent believed on her as she had already confirmed from Mr. Shashank Jain about the genuineness of Directors of the Companies and due to Strict COVID restrictions, it was not even possible for him to verify the proposed registered office of the Companies. Under the pressure of getting the work to earn his livelihood, he had accepted the work. Negligence was inadvertent and without any wilful intent to defraud any of the stakeholders including the Complainant.
- (iii) Due to Strict COVID restrictions, he was not allowed to move out from his house.
- (iv) He requested the Committee to drop the charges against him as there was no intentional act of misconduct.

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

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

Particulars	Date of meeting(s)	Status
1 st Hearing	05 th June 2023	Fixed and adjourned at the request of the Complainant and in absence of the Respondent
2 nd Hearing	10 th April 2024	Part heard and adjourned
3 rd Hearing	17 th May , 2024	Hearing Concluded and Decision taken

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- 6.2. On the day of first hearing on 05th June 2023, the Committee noted that the Complainant vide e-mail dated 02/06/2023 had sought adjournment to another date due to transfer of Investigating Officer. The Respondent was not available in VC waiting room at the time when the matter was taken up. This case having fixed first time for hearing, the Committee adjourned the case to a future date with a view to extend one more opportunity to the parties.
- 6.3. On the day of hearing on 10th April 2024, the Committee noted that the Respondent was present through Video Conferencing mode. Thereafter, he gave a declaration that there was nobody present except him from where he was appearing and that he would neither record nor store the proceedings of the Committee in any form. The Committee noted that the Complainant was not present.
- 6.4. Being first hearing of the case, the Respondent was put on Oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges against him and then the charges as contained in Prima Facie opinion were read out. On the same, the Respondent replied that he is aware about the charges and pleaded Not Guilty to the charges levelled against him. In the absence of the Complainant and in view of Rule 18(9) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee adjourned the case to a later date.
- 6.5. On the last day of hearing on 17th May 2024, the Committee noted that authorized representative of the Complainant and the Respondent was present and appeared before it. The Committee noted that the case was part heard and the Respondent was already on oath. The Committee also noted that the Respondent had filed Written Statement dated 23rd May 2023. The Committee further noted that the Respondent had certified incorporation documents (SPICe+) of M/s. Asunto Technology Private Limited and M/s Smackfree Technology Private Limited, however, on verification by Complainant Department, these Companies were not found to be working at registered office address.
- 6.6. Thereafter, the Committee asked the Respondent to make submissions. The Committee noted the submission of the Respondent, reiterating his submissions as contained in written submissions dated 08th May 2024.
- 6.7. The authorized representative of the Complainant stated that he had already submitted all the documents related to this case. The Committee noted that the Respondent himself admitted that it was not possible for him to verify the proposed registered office of the Companies due to COVID restriction. With a view to obtain assignments via professional links and under pressure of getting the work to earn his livelihood, he had accepted the certification assignment.

6.8. The Committee, after considering the arguments of the Complainant's Representative and the Respondent and based on the documents and information available on record and after considering the oral and written submissions of the parties, decided to conclude the hearing in the captioned case.

7. Findings of the Committee:-

- 7.1. The Committee noted the **first** and **third charge**, that on physical verification by Complainant Department, M/s. Smackfree Technology Private Limited was not available in given address and in case of M/s. Asunto Technology Private Limited, the registered office given was a co-workplace and the Respondent failed to verify the ownership papers/authorization documents from the owner of the property. The Committee noted that both charges relate to the certification of SPICe+ Form INC-32 of both Companies by the Respondent and thus, has examined these charges collectively.
- 7.2. The Committee noted that the Respondent had certified the SPICe+ Form INC-32 of M/s Asunto Technology Private Limited on 27.06.2021 and M/s Smackfree Technology Private limited on 26.06.2021 wherein, the registered office of both companies was mentioned as situated at 1207/343 and 1207/1/343/1, above HDFC Bank, 9th Main, 7th Sector, HSR Layout, Bangalore.
- 7.3. The Committee noted that the Respondent while certifying the SPICe+ Form INC-32 of both the Companies had given his declaration which stated as under:-

I Himanshu Sachdeva, "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 of the Company and maintained as per the relevant provisions of the Companies Act, 2013 and were found to be in order,

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

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(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."

- 7.4. The Committee noted that the Respondent had certified SPICe+ Form INC-32 for incorporating the Company wherein the registered office address of the Company was also mentioned. It was also noted that while certifying the said Form, the Respondent had given the declaration to have verified that requirements of the Companies Act as well as that of Rules made thereunder in relation to registration of the Company and the matters incidental thereto were complied with and that he had personally visited and verified the registered office of the Company. However, the Respondent during the hearing held on 17.05.2024, himself had admitted that he had not visited the registered office of either of the Company and also stated that it was not feasible for him to visit the registered offices. The Respondent further stated that CS Diksha Makhija verified the documents such as Electricity Bill and NOC etc, in soft copy and the Respondent believed on work of CS Diksha Makhija as she had already confirmed from Mr. Shashank about the genuineness of Directors.
- 7.5. Moreover, upon reviewing Spice+ Form INC-32 and its attachments, the Committee noticed that Point-4 of the list of attachments dealing with the Proof of Office Address in respect of both Companies, were left blank, indicating that no proof of ownership of property was attached to the Form. Further, the Respondent had later brought on record sub-lease Agreements made between M/s Sierra Cartel Coworking Spaces represented by Mr. Bharath S. Kumar with authorised signatory of M/s Asunto Technology Private Limited and M/s Smackfree Technology Private Limited. On perusal of aforesaid lease agreements, the Committee observed that these lease agreements were not signed by any witness and the amount of rent/ lease to be paid monthly or yearly were also not mentioned in the lease agreement(s).
- 7.6. The Committee observed that the Respondent had relied upon the verification done by the other professional and he had certified the Form without personally visiting and verifying the registered office of the Company. Hence, it is evident that the Respondent had given false declaration in the SPICe+ Form INC-32 that he had personally visited and verified the registered office of both Companies. The Committee noted that Respondent could not personally visit and verify the registered office address of the Company before certifying incorporation Forms. The Committee also noted that the Complainant Department had mentioned that the lease or rent agreement was also required to be attached with the Form.

7.7. The Respondent was required to be more cautious and vigilant, but he failed to do so. Accordingly, in view of the admission of the Respondent for non-visiting/non-verifying the registered office of the Company on account of Covid restrictions which is in violation of provisions of the Companies Act, 2013, the Committee viewed that the Respondent was negligent in performing his professional duties and thus, the Respondent was held '**GUILTY**' of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

7.8. In respect of the **second charge** that "Form DIR-2" was not attached to Spice+ Form INC-32, the Committee noted that both the Companies in its SPICe+ Form INC-32 and SPICe+ AOA , have mentioned the following persons as the first directors of the Company: -

S.No.	Name of the First Directors mentioned in SPICe+ Form INC-32 and SPICe+ AOA	Name of the Company	Whether the Director was holding DIN before incorporation of Company.
1.	Mr. Bharat Rajput	M/s Asunto Technology Private limited	No, DIN was applied through Spice+ Form INC-32.
2.	Mr. Vivek Kurapati		No, DIN was applied through Spice+ Form INC-32.
3.	Ms. Meena Ramamurthy	M/s Smackfree Technology Private Limited	No, DIN was applied through Spice+ Form INC-32.
4.	Mr. Kishor Kumar Narayanaswamy		No, DIN was applied through Spice+ Form INC-32..

7.9. From the above, the Committee noted that none of the above mentioned Directors of the Company was holding a Director Identification Number (DIN) before its incorporation and they had applied for DIN while incorporating the Companies. .

7.10. In this regard, the Committee noted that Paragraph 4.4.4 STEP 4. SPICe+ Part B of "Technical Guide for Easy Incorporation of Companies Through SPICe+" issued by the Institute of Chartered Accountants of India (Edition July, 2020), states that "*the particulars of the first directors of the company, their names, including surnames or family names, the Director Identification Number, residential address, nationality and such other particulars including proof of identity as may be prescribed; and the particulars of the interests of the first directors of the company in other firms or bodies corporate along with their **consent to act as directors of the company in such form and manner as may be prescribed***" shall be uploaded as the mandatory attachment in the Spice+ Form INC-32.

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7.11. In this context, the Committee further noted that the relevant provisions of Companies Act, 2013 and Companies (Appointment and Qualification of Directors) Rules, 2014 read as under:

Section 152 - Appointment of directors

"(5) A person appointed as a director shall not act as a director unless he gives his consent to hold the office as director and such consent has been filed with the Registrar within thirty days of his appointment in such manner as may be prescribed..."

Rule 8 - Consent to act as director:

"Every person who has been appointed to hold the office of a director shall on or before the appointment furnish to the company a consent in writing to act as such in Form DIR-2...."

7.12. From the above, as per Technical guide issued by ICAI and Section 152 of the Companies Act, the Committee observed that DIR – 2 was an essential document to establish the identity of the Directors, their association with other companies as well as their consent to act as directors of said Company.

7.13. The Committee further noted that the Respondent in his defence submitted that the Form DIR-2 was not required to be attached along with the Form. Therefore, the submission of the Respondent shows that he had acknowledged that Form DIR-2 was not attached with Form Spice+ INC-32 of both Companies.

7.14. The Committee, after taking into consideration, the requirements given in Technical Guide issued by ICAI and relevant provisions of the Companies act, 2013, was of the view that Form DIR-2, i.e., Consent to act as Director, in respect of all the first Directors of both companies was required to be attached to Spice+ Form INC-32 as a mandatory attachment to the Form. However, upon reviewing Spice+ Form INC-32 of M/s Asunto Technology Private Limited and M/s Smackfree Technology Private Limited, it was observed that neither company had attached the Form DIR-2 with the incorporation documents.

7.15. The Committee opined that certification of the details of the Director by the Respondent without ensuring that DIR-2 had been filed by them indicated that the Respondent acted negligently while verifying the relevant documents, which were essential for incorporating the company. It raised the question on details of Director(s) certified by him. Accordingly, the Committee was of the view that the Respondent failed to exercise due diligence while verifying the attachments of Spice Form INC-32. Thus, the Respondent was held **Guilty** of professional misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

7.16. While arriving at its Findings, the Committee also observed that in the background of the instant case the Complainant Department informed that many companies are incorporated at the



behest of Chinese national for doing illegal and unauthorized business in India. 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 e-Form 'SPICe+ INC-32', 'e-AOA' and 'e-MOA' which has been examined by the Committee.

8. **Conclusion:**

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

Charges (as per PFO)	Findings	Decision of the Committee
Para 2.1. and Para 2.3. as above	Para 7.1 to 7.7 as above	Guilty- Item (7) of Part I of the Second Schedule
Para 2.2 as above	Para 7.8 to 7.15 as above	Guilty- Item (7) of Part I of the Second Schedule

9. In view of the above observations, considering the oral and written submissions of the parties and material on record, the Committee held the Respondent **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, I.R.A.S.{RETD.})
GOVERNMENT NOMINEE

Sd/-

(CA. MANGESH P KINARE)
MEMBER

Sd/-

(CA. ABHAY CHHAJED)
MEMBER

DATE: 10/10/2024
PLACE: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

मीनू गुप्ता / Meenu Gupta
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, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032