



# 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/236/21/DD/02/2022/DC/1840/2023]**

**In the matter of:**

**Superintendent of Police**

Central Bureau of Investigation,

Economic Offence - III

4th Floor, A Wing, Plot No. 5B,

CGO Complex,

Lodhi Road,

**New Delhi – 110003**

**.... Complainant**

**Versus**

**CA. Ajay Kumar (M. No. 509448)**

21/1 8-B,

Tilak Nagar,

**New Delhi – 110018**

**.... 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 : 20<sup>th</sup> January 2025**

**DATE OF ORDER : 04<sup>th</sup> February 2025**

1. That vide Findings dated 19.12.2024 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. Ajay Kumar (M. No. 509448)** (hereinafter referred to as the **Respondent**) is **GUILTY** of Professional and



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Other Misconduct falling within the meaning of Items (2), (7), (8) and (9) of Part I 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 20<sup>th</sup> January 2025.

3. The Committee noted that on the date of the hearing on 20<sup>th</sup> January 2025, the Respondent was physically present for the hearing and appeared before it. Thereafter, the Committee asked the Respondent to make submissions in the matter. During the hearing, the Respondent stated that he had already submitted his written representation dated 06<sup>th</sup> January 2025 on the Findings of the Committee. He submitted that he had been cheated and implicated in this case by his senior professional colleague CA. Parminder Singh Oberoi. CA. Parminder Singh Oberoi had assured him that he had conducted the audit of the firm (M/s. Global Paper Resources) and the Respondent had signed the Audit Report(s) in good faith. The Committee also noted the written representation of the Respondent dated 06<sup>th</sup> January 2025 on the Findings of the Committee, which, inter alia, are given as under:-

- The Respondent signed the Tax Audit Report (s) of the firm at the behest of CA. Parminder Singh Oberoi as CA. Parminder Singh Oberoi had exceeded tax audit limit prescribed by the ICAI.
- CA. Parminder Singh Oberoi influenced the Respondent and obtained back dated certificate dated 17.02.2014 from him.
- The Respondent has no engagement letter and working papers related to subject audit assignment.
- The reason that the Respondent did not verify the accounts independently cannot constitute a professional misconduct.



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- The criminal proceedings before CBI Court has not yet begun, and the Disciplinary Committee should have waited for the verdict of CBI Court.

4. The Committee considered the reasoning as contained in the 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.

5. Thus, keeping in view the facts and circumstances of the case and material on record including written and verbal representation of the Respondent on the Findings, the Committee noted that the Tax Audit Report(s) signed by the Respondent were part of the loan documents, based upon which the loan was sanctioned by Vijaya Bank as per details given in complaint of CBI. The Committee further observed that the name of Respondent has been included as an accused person in the Chargesheet dated 11.11.2021 filed by the Complainant Department (CBI authority). In view of submissions of the Respondent, the Committee was of the view that the Respondent has signed Tax Audit Report(s) of the Firm without independent verification of books of accounts and other related records/documents of the Firm for the relevant period i.e. Financial Years 2010-2011 to 2012-2013.

6. The Committee further noted that as per submissions of the Respondent, he had issued ante-dated certificate, on the instructions of CA. Parminder Singh Oberoi. Moreover, the Committee opined that the Respondent has admitted that he had not complied with the requirements of SA 210 (Revised) – 'Agreeing the Terms of Audit Engagements' and SQC 1 – 'Quality Control for Firms as he has no engagement letter and working paper/audit document related to audit assignment.

7. Hence, the Professional Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 19.12.2024 which is to be read in consonance with the instant Order being passed in the case.



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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 and Other Misconduct.

9. Thus, the Committee ordered that the name of the Respondent i.e. CA. Ajay Kumar (M. No. 509448), New Delhi be removed from the Register of members for a period of 01 (One) year and also imposed a fine of Rs. 50,000/- (Fifty thousand rupees only) upon him, which shall be paid within a period of 60 (sixty) days from the date of receipt of this Order.

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  
अनुरासनात्मक निदेशालय / Disciplinary Directorate  
भारतीय सनदी लेखाकार संस्थान  
The Institute of Chartered Accountants of India  
आईसीएआई भवन, विरथास नगर, बंगलूरु-560025  
ICAI Bhawan, Viriwaras Nagar, Bangalore, 560025

**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/236/21/DD/02/2022/DC/1840/2023]**

**In the matter of:**

**Superintendent of Police  
Central Bureau of Investigation,  
Economic Offence - III  
4<sup>th</sup> Floor, A Wing, Plot No. 5B,  
CGO Complex,  
Lodhi Road,  
New Delhi – 110003**

**.... Complainant**

**Versus**

**CA. Ajay Kumar (M. No. 509448)  
21/18-B,  
Tilak Nagar,  
New Delhi – 110018**

**.... Respondent**

**MEMBERS PRESENT:**

**Shri Jiwesh Nandan, IAS (Retd.), Government Nominee (through VC)  
Ms. Dakshita Das, IRAS (Retd.), Government Nominee (through VC)  
CA. Abhay Chhajed, Member (through VC)**

**DATE OF FINAL HEARING : 23<sup>rd</sup> September 2024**

**PARTIES PRESENT:**

**Respondent : CA. Ajay Kumar (Through VC)**

**Counsel for Respondent : CA. C.V. Sajan (Through VC)**

**1. Background of the Case:**

- 1.1. M/s. Global Paper Resources (hereinafter referred to as **the Firm**) was sanctioned Cash Credit Hypothecation (CCH) limit of Rs. 6 crores by Vijaya Bank on 27.02.2014 for expansion of business against the primary security of stock and the collateral security of a

house and that the firm and its partners had fraudulently and dishonestly disposed-off the primary security without the knowledge of the bank and diverted the loan amount for other purposes and thereby misappropriated the same causing wrongful pecuniary loss to the bank and corresponding wrongful pecuniary gain to themselves.

- 1.2. The Respondent had audited and certified false statement of accounts viz., Balance Sheet and Profit & Loss Account of Firm allegedly without having physically inspected the supporting documents and proper scrutiny of books of accounts.
- 1.3. The investigation revealed that Sh. Parminder Singh Oberoi who was another Chartered Accountant and was known to one of the accused Mr. Deven Juneja, partner of the Firm, had allegedly requested the Respondent to sign fake Financial Statements of accused Firm for the financial years 2010-11, 2011-12 and 2012-2013 and that the Respondent had allegedly certified the same without checking / verifying any documents and issued a Certificate to that effect knowing fully well that there were no supporting documents available in respect of this non-existent Firm.

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

- 2.1. The Respondent had audited / certified the financial statements of the Firm for financial years 2010-11, 2011-12 and 2012-2013 without proper scrutiny of books of accounts or without obtaining reasonable assurance to ensure that financial statements as a whole were free from material misstatements and also that the Respondent had failed to report on the financial statements as required by the Standards on Auditing (SAs) with respect to audit findings based on which the loan application of the Firm was processed.

The Respondent had also issued a false antedated certificate without asking / checking basic documents / data of the Firm. The Respondent had not maintained any records / documents with respect to the audit of the Firm and had not obtained any engagement letter from the Firm.

As per the Standard on Quality Control 1 (SQC-1), the auditor is required to maintain the copy of audit documentation for a period of 7 years. Also, as per Standard of Auditing (SA) 210, it is mandatory for a Chartered Accountant to obtain an engagement letter from the client before accepting any audit engagement. Both the guidelines were not adhered to by the Respondent.

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3. **The relevant issues discussed in the Prima Facie Opinion dated 29<sup>th</sup> August 2023 Formulated by the Director (Discipline) in the matter in brief, are given below:**

- 3.1. One of the partners of the Firm, Mr. Deven Juneja, has admitted before the Complainant Department that the accused Firm never existed at the address which was shown / given on its letterhead, had no godown and did not have any book debts and stock. Further, regarding the role of the Respondent in the said fraud done by the Firm with Bank, the Complainant has stated that the alleged fake financial statements of the Firm for FYs 2010-11, 2011-12 and 2012-13 were audited by the Respondent allegedly without any independent verification of books of accounts / documents / records of the Firm. The investigation carried out by the Complainant department revealed that the Respondent had not maintained any records / documentation in respect of the said audit and did not obtain any engagement letter from the said Firm. Further, the Respondent had also issued a certificate dated 17.02.2014 stating that he had conducted the audit of books of accounts of the Firm, but the said certificate was allegedly ante-dated which was issued by the Respondent based on the email received by him on 26.05.2014.
- 3.2. The financial statements of the Firm for the period i.e., FYs 2010-11, 2011-12 and 2012-13 have been audited and signed / certified by the Respondent. The Respondent has admitted that he had unwittingly attested the contentious set of financial statements and allied documents including the certificate dated 17.02.2014 without realizing that those documents were fake and fabricated and not represented by the affairs of a genuine business. The Respondent has also admitted that he had attested the contentious financial statements in good faith. In his Statement on oath given before the Complainant department, the Respondent has accepted that he had signed the financial statements of the accused firm without checking the correctness of the contents of the related documents and without seeing the cash book, trial book, invoices, ledger etc.
- 3.3. From the admission of the Respondent and his statement on oath given before the Complainant department, it was evident that the Respondent has issued clean audit report without doing any independent verification of the books of accounts and other related records / documents of the Firm for the alleged period. While making such admissions, the Respondent has also taken the defence that he had carried out the alleged attestation work without verifying the antecedents of the clients, relying totally upon CA. Parminder Singh Oberoi who was senior to him and was also known to him since he was an articled clerk. Moreover, being a Chartered Accountant in practice, the Respondent was expected to follow various norms, guidelines and standards while conducting audit of financial statements of

the Firm for the alleged period and to do the independent verification and examination of books of accounts and other documents & records of the Firm and to discharge the professional responsibility bestowed upon him as an auditor. But the Respondent has failed to do any independent verification of the books of accounts and related records of the Firm and issued the clean audit report.

- 3.4. Accordingly, it was viewed that the Respondent is prima facie **Guilty** of Professional Misconduct falling within the meaning of Item (2), (7), (8) and (9) of Part-I of Second Schedule to the Chartered Accountants Act, 1949 as alleged without doing any independent verification of its books of accounts.
- 3.5. Further, vide email dated 26.05.2014 sent by CA. Parminder Singh Oberoi enclosing a handwritten certificate dated 17.02.2014, the Respondent was asked to issue the certificate certifying that he had audited the financials of Firm for FYs 2011-12 and 2012-13 against which the Respondent issued and signed the alleged certificate dated 17.02.2014. Thus, it was clear that while the request was made to the Respondent for issuing the alleged certificate in the month of May 2014, he issued the certificate putting date of 17.02.2014 meaning thereby that he issued the certificate in back date which proved that the Respondent was merely following the instructions of his client and was gross negligent in the conduct of his professional duties. The Respondent failed to provide the copy of his engagement letter as well as his audit working papers to the Complainant department during investigation conducted by the Complainant department.
- 3.6. In respect of audit working papers, the Respondent had stated that he seemed to have misplaced the working paper file related to alleged audit of the Firm while also taking the plea of Rule 12 of CA Rules 2007 stating that while the allegations were related to FYs 2010-11 to 2012-13, the said Complaint was received by the Respondent in January 2022 only. In this regard, it was noted that even though the instant complaint filed by the Complainant before the Disciplinary Directorate was registered in January 2022, but it was evident that the investigation in the instant matter had already been commenced by the Complainant department in Year 2017, wherein statements of the Respondent had also been recorded on 22.05.2018, 15.11.2018 and 10.03.2021 and chargesheet had also been filed by the Complainant department on 11.11.2021 making the Respondent as one of the accused. Moreover, in his Statement on Oath given before the Complainant department, the Respondent has also accepted that he had certified / audited the financial statements of the Firm for the alleged period without verification of its related records. Thus, it was evident that the Respondent has not done any due diligence while conducting the audit and even he has

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not obtained any sufficient / appropriate audit evidences before issuance of his audit report and thus, this defence of misplacing of his audit working papers and his plea of Rule 12 is viewed merely as an afterthought.

3.7. In the instant matter, it was also evident that the Respondent has not complied with the requirements of SA 210 and SQC 1. Accordingly, the Respondent was prima facie **Guilty** of Professional and 'Other' Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule and Item (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949 for issuing the antedated certificate and for violation of the requirements of SA 210 and SQC 1 for not maintaining / retaining engagement letter and audit working papers.

3.8. The Director (Discipline) in Prima Facie Opinion dated 29<sup>th</sup> August 2023 opined that the Respondent was prima facie **Guilty** of Professional and Other Misconduct falling within the meaning of Items (2), (7), (8) and (9) of Part I of Second Schedule and Item (2) of Par-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 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

*(2) certifies or submits in his name, or in the name of his firm, a report of an examination of financial statements unless the examination of such statements and the related records has been made by him or by a partner or an employee in his firm or by another chartered accountant in practice"*

**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."*

**Item (8) 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  
(8) fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion."

**Item (9) 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  
(9) fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances."

**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:

X                    X                    X                    X                    X  
(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."

3.9. The Prima Facie Opinion Formed by the Director (Discipline) was considered by the Disciplinary Committee in its meeting held on 26<sup>th</sup> December 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 and Other Misconduct falling within the meaning of Items (2), (7), (8) and (9) of Part I of Second Schedule and Item (2) of Par-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.

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:

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S.No.	Particulars	Dated
1.	Date of Complaint in Form 'I' filed by the Complainant	29 <sup>th</sup> June 2021
2.	Date of Written Statement filed by the Respondent	07 <sup>th</sup> March 2022
3.	Date of Rejoinder filed by the Complainant	29 <sup>th</sup> March 2022
4.	Date of Prima Facie Opinion Formed by Director (Discipline)	29 <sup>th</sup> August 2023
5.	Written Submissions filed by the Respondent after PFO	09 <sup>th</sup> May 2024
6.	Written Submissions filed by the Complainant after PFO	Not filed

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

The Respondent vide letter dated 09<sup>th</sup> May 2024 inter-alia, made the submissions which are given as under:-

- (i) Ante-dating of a document has not resulted in taking or giving any unlawful advantage, and such ante-dating deserved to be viewed as innocuous, according to settled law in this regard.
- (ii) The Respondent was asked by CA. Parminder Singh Oberoi, who wielded undue influence over the Respondent. His request dated 26<sup>th</sup> May 2014 was to issue a certificate as on 17<sup>th</sup> February 2014. This date was chosen by CA. Parminder Singh Oberoi to create evidence that the Bank had obtained this certificate before sanctioning the loan which was done on 27<sup>th</sup> February 2014.
- (iii) The involvement of the Respondent for attestation of financial statements of the Company for Financial Years 2010-11, 2011-12 and 2012-13, did not necessitate issuing any engagement letter for those years afresh because it being recurring audit of a small entity with no change to the preconditions of audit. So, there was no violation of SA 210.
- (iv) Regarding the allegation of inability of the Respondent to present the working papers, the benefit in Rule 12 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 cannot be denied in view of the fact that the Complaint was received in January 2022 i.e., after seven years since the assignment was done.
- (v) The omissions and error on the part of the Respondent does not lead to professional misconduct.

- (vi) Although there have been negligence and casual approach on the part of the Respondent in the instant case, but he is not liable for professional misconduct as none of the charges have been proven beyond reasonable doubt against him.

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

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

Particulars	Date of meeting(s)	Status
1 <sup>st</sup> Hearing	10 <sup>th</sup> April 2024	Part heard and adjourned.
2 <sup>nd</sup> Hearing	23 <sup>rd</sup> September 2024	Hearing concluded and decision taken.

- 6.2. On the day of hearing on 10<sup>th</sup> April 2024, the Committee noted that the Respondent was present through Video conferencing mode. Thereafter, he made 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 and notice of listing of the case has been served upon them. Being first hearing of the case, the Respondent was put on Oath.
- 6.3. 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.
- 6.4. On the day of hearing on 23<sup>rd</sup> September 2024, the Committee noted that the Respondent was present along with Counsel through video conferencing mode and appeared before it. The Committee noted that the Complainant was not present for the hearing despite the notice of hearing was duly served upon him. The Committee noted that the Respondent was put on oath on 10<sup>th</sup> April, 2024. The Committee also noted that the Respondent had filed a written Statement dated 09<sup>th</sup> May, 2024.
- 6.5 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 –

- CA. Parminder Singh Oberoi offered the said work to the Respondent to undertake the attestation.
- Respondent had signed the financial statements at the request of CA. Parminder Singh Oberoi as his number of audit limit had exceeded in that financial year.
- The Respondent has no working papers related to the audit as same were returned back to CA. Parminder Oberoi.
- Item (2) of Part I of Second schedule was not applicable in this case, as financial statements were examined by CA. Parminder Oberoi (another Chartered Accountant).
- Assurance was given by CA. Parminder Singh Oberoi that the accounts sent to him had been properly verified by him.
- The charges of professional misconduct must be proven beyond reasonable doubt as it affects the right to practise the profession as a person and proceedings are quasi-criminal in nature.
- Backdating of a document has not resulted in any unlawful advantage, and such ante-dating deserves to be viewed as innocuous.
- This matter may be kept in abeyance until the related criminal case is decided by the Court.

6.6 Based on the documents/material and information available on record and the oral and written submissions made by the Respondent, and on consideration of the facts of the case, the Committee concluded the hearing in subject case and took decision on the conduct of the Respondent.

## 7. Findings of the Committee: -

7.1 The Committee noted that the charges against the Respondent are as under: -

The Respondent had audited / certified the financial statements of the Firm for financial years 2010-11, 2011-12 and 2012-2013 without proper scrutiny of books of accounts or without obtaining reasonable assurance to ensure that financial statements as a whole were free from material misstatements and also that the Respondent had failed to report on the financial statements as required by the Standards on Auditing (SAs) with respect to audit findings based on which the loan application of the Firm was processed. The Respondent had not maintained any records / documents with respect to the audit of the Firm and had not obtained any engagement letter from the Firm.

The details of charge is given in para 2.1 above.

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: -

- 7.2 The Committee noted the submissions of the Respondent that he had signed the financial statements at the request of CA. Parminder Singh Oberoi as he had exceeded the prescribed limit of tax audits in that financial year; thereby reposing complete trust on him. Further, he has no working papers related to the audit of the firm. He added that it was a case of wrongful implication of the Respondent in the case and the Respondent was not aware whether the documents /financial statements were fabricated or not.
- 7.3 Thereafter, the Committee noted that the Respondent has submitted that Item (2) of Part I of Second schedule was not applicable in this case, as financial statements were examined by CA. Parminder Oberoi (another Chartered Accountant). In view of this statement of the Respondent, the Committee viewed that the Respondent had not substantiated this fact with corroborative evidence as he failed to provide audit documentation related to this case.
- 7.4 Further, the Committee noted that the Respondent has submitted that backdating of a document as on 17/02/2014 has not resulted in any unlawful advantage. The Committee observed that the Respondent in his written submissions has admitted that the said date was chosen by CA. Parminder Oberoi to create evidence that bank had obtained this certificate before sanctioning of loan i.e. 27/02/2014. The Committee further observed that the Respondent has issued (on 26/05/2014) the said certificate dated 17/02/2014, on the instructions of CA. Parminder Oberoi, with a view to obtain cash credit facility by the Firm.
- 7.5 Further, the Committee noted that the Respondent had taken the plea of Rule 12 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The Committee noted that said the plea of the Respondent was already dealt with by the Director (Discipline) as the instant complaint filed by the Complainant before the Disciplinary Directorate was registered in January 2022, but it is evident that the investigation in the instant matter had already been commenced by the Complainant department in year 2017 wherein statements of the Respondent had also been recorded on 22.05.2018. Hence, in view of the same, the Committee did not accept the plea of the Respondent.
- 7.6 The Committee noted the contention of the counsel for Respondent that the disciplinary proceedings before the Disciplinary Committee of ICAI ought to be stayed pending till a final

decision is rendered in the criminal case instituted in the Court in the related matter, wherein the Respondent is also charge-sheeted as one of the accused. The Committee, in this regard, observed that the scope of examination in a criminal case instituted pursuant to the complaint filed by CBI and the disciplinary proceedings initiated by Disciplinary Committee of ICAI pursuant to CBI's complaint are materially different. The Committee further noted that the Disciplinary Committee of ICAI is required to examine whether the conduct of the Respondent has met the professional standards as required of its members and/or whether the Respondent is guilty of misconduct. The Committee also noted that the standard of proof required in the two proceedings – the criminal case and the disciplinary proceedings initiated by ICAI – are also materially different. On overall consideration, the Committee was of the view that the scope of two proceedings is different. The Committee viewed that any delinquency in the professional standards or any acts of omission of professional standards/commission of professional misconduct is not the subject matter in a criminal trial and the same is required to be examined by Disciplinary Committee of ICAI. In view of the same, the Committee rejected the contention of the Respondent that the disciplinary proceedings before Disciplinary Committee of ICAI are required to be stayed pending the decision in the criminal trial.

- 7.7 Further, the Committee noted the relevant extract of the Statement on Oath dated 23.02.2018 of Mr. Deven Juneja, one of the partners of accused Firm, given by him before the Complainant department which are given hereunder:

*'...as soon as the CC limit of Rs. 6 crores was sanctioned, Sh. Sanjay Kalra started to withdraw money by issuing cheques / RTGS in favour of some companies showing that papers / boards were being purchased from said companies. Later on, I came to know that the payments made to the companies were shell companies and money was siphoned off by Sh. Sanjay Kalra in different shell companies. On my enquiry, I was told by Sh. Sanjay Kalra and Sh. Sunny Kalra that they have enough book debts and stock of papers and boards. Later on, I found that they did not have any book debts and stock...*

*'As per bank's policy, M/s Global Paper Resources was to submit their stock position and book debts' details with the bank at the end of every month. On the basis of monthly stock statement and book debts details, the drawing capacity of M/s Global Paper Resources was to be fixed by the bank. However, in case of M/s Global Paper Resources, no such drawing capacity was fixed / checked by the bank'*

*'As per me, no godown of M/s Global Paper Resources was located either at 67/9 or at 26/19 situated at Village Khera Kalan, Alipur Road, Delhi. As per rent deed purportedly shown executed on 07.11.2008, the said godown belonged to one Sh. Saurabh Goel S/o of Sh. Ravinder Goel, R/o- 22/3, Shakti Nagar, Delhi.'*

*'You have shown me letter head of M/s Global Paper Resources, 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi enclosed with the aforementioned account opening form. After going through the same, I state, the office of M/s Global Paper Resources was never existed at 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi. The said premises belongs to Sh. Shyam Sunder Juneja my uncle. Sh. Shyam Sunder Juneja is residing at F-41, Ashok Vihar, Phase-I, New Delhi.'*

The Committee observed from the above that Mr. Deven Juneja, has admitted that the accused Firm never existed at the address which was shown / given on its letterhead, had no godown and did not have any book debts and stock.

7.8 The Committee further noted the relevant extract of Statements on Oath of the Respondent considered relevant in the matter, which are given hereunder:

"Statement on oath recorded on 15.11.2019.

*...I have signed the aforementioned documents of M/s. Global Paper Resources, 322-323, Kuch Mir Ashiq, Chawri Bazar, Delhi but the dates on which the documents were signed, were not written. I do not remember the actual date of signing the aforementioned documents. I further make it clear that I signed the aforementioned documents without checking the correctness of the contents of the documents and the aforementioned documents were signed by me back dated.*

*I state that the Form no. 3CB in respect of M/s Global Paper Resources, Shop No. 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi-110006 dated 20.09.2011, Form No. 3CD of Sanjay Kumar Kalra, Prop. M/s Global Paper Resources, Shop No. 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi-110006, for A.Y. 2011-2012 dated 20-09-2011, Balance Sheet of M/s Global Paper Resources, 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi as on 31.03.2011 dated 20.09.2011, Trading and Profit and Loss Account of M/s Global Paper Resources, 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi for the year ended 31.03.2011 dated 20.09.2011, List of Sundry Debtors of M/s Global Paper Resources, 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi, Form no. 3CB in respect of M/s Global Paper Resources, Shop No. 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi-110006 dated 18.09.2012, Form No. 3CD of Sanjay Kumar Kalra, Prop. M/s Global Paper Resources, Shop No. 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi-110006, for A.Y. 2012-2013 dated 18-09-2012, Balance Sheet of M/s Global Paper Resources, 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi as on 31.03.2012 dated 18.09.2012, Trading and Profit and Loss Account of M/s Global Paper Resources, 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi for the year ended 31.03.2011 dated 20.09.2011, Details of Fixed Asset Schedule 'A' of M/s Global Paper Resources, List of Sundry Debtors of M/s Global Paper Resources, 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi, Form no. 3CB in respect of M/s Global Paper Resources, Shop No. 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi-110006 dated 17.09.2013, Form No. 3CD of Sanjay Kumar Kalra, Prop. M/s Global Paper Resources,*

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Shop No. 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi-110006, for A.Y. 2012-2013 dated 17-09-2013, List of Sundry Debtors of M/s Global Paper Resources, 322-323, Kucha Mir Ashiq, Chawri Bazar, Delhi who were brought to me by Sh. Virender Singh Oberoi, younger brother of Sh. Parminder Singh Oberoi, CA and all the aforementioned documents were signed by me on the same day during 2014 at one go on the request of Sh. Parminder Singh Oberoi in good faith.

Statement on oath recorded on 10.03.2021.

*I state that I had signed the financial statements of M/s Global paper resources on the request of Sh. Parminder Singh Oberoi without physically inspecting the documents. I further state that, during February 2014, I was approached by Sh. Parminder Singh Oberoi to get the financial statements of M/s Global Paper Resources signed. Sh. Parminder Singh Oberoi told me that he was maintaining cash book, trial book, invoices, ledger etc. of M/s Global Paper Resources but as his quota of signing of financial statements of 45 firms/companies (maximum no. of financial statements which a CA can sign in a year) for that year was completed, he could not sign the same and requested me to sign the financial statements of M/s Global Paper Resources. I believed him and on his trust, signed the financial statements of M/s Global Paper Resources for the year 2010-11, 2011-12 and 2012-13, as produced by him without seeing cash book, trial book, invoices, ledger etc. and handed over the same to Sh. Parminder Singh Oberoi. I further state that I did not maintain the copy of the financial statements as signed by me."*

- 7.9 The Committee noted that the Respondent in his Statement(s) on oath given before the Complainant department has accepted that he had signed the financial statements of the accused firm without checking the correctness of the contents of the related documents and without seeing the cash book, invoices, ledger, trial balance, etc. In view of admission of the Respondent, the Committee observed that it is clear that the Respondent has issued clean audit report(s) without doing any independent verification of the books of accounts and other related records / documents of the Firm for the alleged period. While making such admissions, the Respondent has also taken the defense that he had carried out the alleged attestation work without verifying the antecedents of the clients, relying totally upon CA. Parminder Singh Oberoi who was senior to him and was also known to him. The Committee noted that being a Chartered Accountant in practice, the Respondent was expected to follow various norms, guidelines and Standards while conducting audit of financial statements of the Firm for the alleged period and to do the independent verification and examination of books of accounts and other documents / records of the Firm and to discharge the professional responsibility cast upon him as an auditor. But the Respondent has failed to do

any independent verification of the books of accounts and related records of the Firm and issued the clean audit report.

- 7.10 Thereafter, the Committee observed that vide email dated 26.05.2014, CA. Parminder Singh Oberoi enclosed a handwritten certificate dated 17.02.2014 and asked the Respondent to issue the document certifying that he had audited the financials of Firm for Financial Years 2011-12 and 2012-13 against which the Respondent issued and signed (on 26.05.2014) the alleged certificate dated 17.02.2014. The Committee viewed that the Respondent had issued said certificate ante-dated as per the instructions of CA. Parminder Singh Oberoi, which proves that the Respondent was merely following such instructions.
- 7.11 Further, the Committee noted that the Respondent failed to provide the copy of his engagement letter as well as his audit working papers to the Complainant department during investigation conducted by the Complainant department. In this regard, the Committee observed that the Respondent in his Written Statement and even in his Statement(s) on Oath given before the Complainant department has mainly taken the defense that the alleged audit assignment of the Firm was offered to him by CA. Parminder Singh Oberoi and he had done the alleged audit on good faith. Moreover, in his Statement on Oath given before Complainant department dated 22.05.2018, the Respondent has accepted that he had never met any partner of the accused Firm. Thus, the Committee opined that it is clear that the engagement letter for conducting the audit was never issued to the Respondent by the Firm.
- 7.12 The Committee on consideration of above, observed that the documents certified by the Respondent were part of the loan documents and based upon which the loan was sanctioned by Vijaya Bank as per details given in complaint of CBI. The Committee noted that the loan application and related documents have been brought on records by the Complainant. The Committee observed that the name of Respondent has been included as an accused person in the Chargesheet dated 11/11/2021 filed by the Complainant Department (CBI authority). The Committee noted that the Complainant neither submitted any written submissions after Prima Facie Opinion of Director (Discipline) nor appeared before it and explained the further details of fraud committed on the bank, the role of the Respondent in the matter and the details of falsification/fabrication of Financial Statements of the Firm. The Committee was of the view that it is evident that the Respondent has carried out the alleged attestation work of the Firm without independent verification of books of accounts and other related records/documents of the Firm for the relevant period. The Committee was of the opinion that the Respondent, by simply relying on CA. Parminder

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Singh Oberoi, has carried out the attestation work without meeting the required professional standards and thereby failed to apply due diligence. The Committee was further of the opinion that it is evident that the Respondent has issued the ante-dated certificate, on the instructions of CA. Parminder Singh Oberoi, about auditing the financial statements of the Firm, and was thus grossly negligent in the conduct of his professional duties.

- 7.13 The Committee noted the submissions of the Counsel for the Respondent that as regards non-submission of engagement letter, there is no room for any misunderstanding on responsibilities of the Auditor in case of Tax Audit, as the scope of Tax Audit is clearly defined in Section 44 AB of Income Tax Act, 1961 through Forms 3CB and 3CD and therefore Respondent deserves the benefit to be given to Auditors on smaller entities. The Committee noted the submissions of the Respondent and observed that SA 210 (Revised) – 'Agreeing The Terms Of Audit Engagements' (effective for all audits relating to accounting periods beginning on or after April 1, 2010) states that the Auditor shall agree the terms of his audit engagement with management or those charged with governance, as appropriate wherein the agreed terms of the audit engagement shall be recorded in an audit engagement letter or other suitable form of written agreement. Further, Standard on Quality Control (SQC) 1 – 'Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements' (effective for all engagements relating to accounting periods beginning on or after April 1, 2009) requires an Auditor to retain the audit working papers / documentation where the retention period ordinarily is not shorter than seven years from the date of the auditor's report. Thus, in the instant matter, the Committee opined that it is evident that the Respondent has not complied with the requirements of SA 210 and SQC 1 as he failed to bring on record any working paper/audit document.

- 7.14 Accordingly, in view of the above and based on the documents/material and information available on record and after considering the oral and written submissions made by the Respondent, the Committee was of the view that the Respondent was **GUILTY** of Professional and Other Misconduct falling within the meaning of Items (2), (7), (8) and (9) of Part-I 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:

Charges (as per PFO)	Findings	Decision of the Committee
Para 2.1 as above	Para 7.1 to 7.14 as given above	<b>GUILTY</b> - as per Items (2), (7), (8) and (9) of Part-I 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 parties and material on record, the Committee held the Respondent **GUILTY** Professional and Other Misconduct falling within the meaning of Items (2), (7), (8) and (9) of Part I of Second Schedule and Item (2) of Par-IV of First Schedule to the Chartered Accountants Act, 1949.

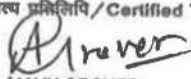
Sd/-  
(SHRI JIWESH NANDAN, I.A.S. {RETD.})  
GOVERNMENT NOMINEE

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

Sd/-  
(CA. ABHAY CHHAJED)  
MEMBER

DATE 19/12/2024  
PLACE New Delhi

प्रमाणित सत्य प्रतिलिपि / Certified True Copy

  
अंजू ग़ोवर / ANJU GROVER  
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