



# 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/263/22/DD/163/2022/DC/1718/2023]**

**In the matter of:**

Registrar of Companies, NCT of Delhi & Haryana,  
Ministry of Corporate Affairs,  
Through Shri Mangal Ram Meena,  
Deputy Registrar of Companies,  
NCT of Delhi & Haryana  
4<sup>th</sup> Floor, IFCI Tower,  
61, Nehru Place,  
New Delhi – 110 019

...Complainant

Versus

CA. Nishant Gupta (M. No. 530637)  
Shop No. 20, Gita School Market,  
Railway Road,  
Kurukshetra – 136 118

...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 (In person)
4. CA. Mangesh P Kinare, Member (Through VC)

**DATE OF HEARING : 03<sup>rd</sup> February 2025**

**DATE OF ORDER : 08<sup>th</sup> 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. Nishant Gupta (M. No. 530637) (hereinafter referred to as the Respondent") is



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**GUILTY** of 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 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 four occasions viz. in the meetings fixed on 11/12/2024, 06/01/2025, 20/01/2025 and 03/02/2025.

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 had neither filed any written representation on the Findings of the Committee in captioned case nor appeared before it despite the fact that he was specifically informed through notices for hearings fixed on 20/01/2025 and 03/02/2025 that in case of his failure to appear, the matter would be decided ex-parte based upon the documents and materials available on record. The Committee further noted that the proviso to Rule 19(1) of afore-stated Rules provides that if the Respondent does not appear for making representation before it at the stage of award of punishment, the Committee shall presume that he has nothing more to represent before it and shall pass order.

4. In view of above facts, the Committee decided that there was no need of granting any further opportunity to the Respondent as sufficient opportunities have already been extended to him. Therefore, the Committee decided to proceed with passing of order in the instant matter, in the absence of the Respondent, on the basis of documents/ material available on record.

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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 that the Financial Statements of the Company are required to be signed on behalf of the Board of Directors either by the Chairperson of the Company where he is authorised by the Board or by two directors out of which one shall be Managing Director and the Chief Executive Officer, if he is a director in the Company, the Chief Financial Officer and the Company Secretary of the Company, wherever they are appointed, for submission to the auditor for his report thereon. But in the instant case, on perusal of the Financial Statements of the Company for the Financial Year 2019-2020, these were not signed by the Directors of the Company and was signed by the Respondent only.

6. The Committee observed that since the Financial Statements audited by the Respondent were not bearing signatures of Chairperson/Directors, indicating that the same were not approved by the Board of the Company and the Respondent should not have accepted the financial statements for audit and accordingly, should not have signed the same as auditor of the Company. Thus, the Respondent failed to ensure compliance of Section 134 of the Companies Act, 2013. Hence, the Professional Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 16<sup>th</sup> 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.



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8. Thus, the Committee ordered that the Respondent i.e. CA. Nishant Gupta (M. No. 530637), Kurukshetra be REPRIMANDED, under Section 21B(3)(a) of the Chartered Accountants Act, 1949.

*ok*

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

सही प्रतिलिपि होने के लिए प्रमाणित  
Certified to be true copy

*Meenu Gupta*  
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, Shaheedra, Delhi-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/263/22-DD/163/2022/DC/1718/2023]

In the matter of:

Registrar of Companies, NCT of Delhi & Haryana,  
Ministry of Corporate Affairs,  
Through Shri Mangal Ram Meena,  
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MEMBERS PRESENT:

CA. Ranjeet Kumar Agarwal, Presiding Officer (in person)  
Shri Jiwesh Nandan, IAS (Retd.), Government Nominee (in person)  
CA. Mangesh P Kinare, Member (through VC)

DATE OF FINAL HEARING : 18<sup>th</sup> June 2024

PARTIES PRESENT:

Complainant : Mr. Gaurav, Dy. ROC - AR of the Complainant (through VC)  
Counsel / AR for Respondent : Mr. Sukhmeet Lamba (in person)

1. Background of the Case:

- 1.1. As per the Complainant Department, certain information had come to the knowledge of Central Government that Foreign Nationals/ individuals/ entities with the help and support of professional were involved in formation of Companies wherein dummy persons were engaged as subscribers to MOA & Directors by furnishing forged documents with falsified addresses / signatures, Director Identification Number (DIN) to MCA.

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- 1.2. It is stated that some companies/individuals/entities who were directly or indirectly connected with the above Company were found to be engaged in illegal/ suspicious activities, money laundering, tax evasion and non-compliance of various provisions of laws.
- 1.3. The Complainant Department stated that certain professionals in connivance with such individuals/directors/subscriber to MOA have assisted in incorporation and running of these Companies for illegal/suspicious activities in violation of various laws by certifying e-forms/various reports etc. on MCA portal with false information concealing the real identities of such individuals.
- 1.4. It was further stated that professionals are duty bound to discharge their duties as per law and certify / verify documents / e-forms or give certificate / Report after due diligence so that compliance to the provisions of law shall be ensured. However, they had failed to discharge their duties and wilfully connived with directors / company / shareholders / individuals in certifying e-forms knowingly with false information / documents / false declaration / omitting material facts or information in said Company.
- 1.5. During the scrutiny of records on MCA Portal by the Complainant department, it was found that M/s Alibaba Agro Foods Private Limited (hereinafter referred to as the "Company") has filed Form AOC-4 for filing the Balance Sheet for the financial year 2019-20. In the instant matter, the Respondent has audited the financial statements of the Company for the financial year 2019-20.

2. **Charges in brief:**

- 2.1. The Company has filed Form AOC-4 with Registrar of Companies for filing the Balance Sheet and other financial information. The said Balance Sheet as on 31.03.2020 (financial year 2019-20) was not signed by Shri Shyam Lal Singhal and Smt. Rekha Rani (Directors of the Company). The Complainant also stated that signatures of the Directors and the Respondent seem to be forged on the same.

3. **The relevant issues discussed in the Prima Facie Opinion dated 22<sup>nd</sup> September 2022 formulated by the Director (Discipline) in the matter, in brief, are given below:**

- 3.1. Considering the provisions under Section 134 of the Companies Act, 2013 and on perusal of the Financial Statements of the Company for the financial year 2019-20, it was noted that the same was not signed by the Directors of the Company and it was signed by the

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Respondent only and the same clearly indicated that the Respondent has audited the financial statements of the Company for the financial year 2019-20.

- 3.2. Since the financial statements audited by the Respondent were not approved by the Chairperson / Directors of the Company, the Respondent should not have accepted the financial statement for audit and accordingly, should not have signed the same as auditor of the Company. Moreover, the Respondent failed to submit his Written Statement in the extant matter despite reminder sent to him in this regard. Non-submission of the Written Statement by the Respondent indicated that he is in agreement with the allegation levelled against him and he has nothing to controvert in the matter.
- 3.3. Though the Complainant stated that the signature of the Respondent seemed to be forged on the financial statements yet in view of the fact that the Respondent did not deny his signatures by submitting his written submissions on the allegation, the benefit cannot be extended to the Respondent at this stage. Also, since the financial statements were not signed by any Directors / Chairperson of the Company, question of forging of the same by the Respondent does not arise at all.
- 3.4. Accordingly, the Director (Discipline) in his Prima Facie Opinion dated 22<sup>nd</sup> September 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 -*

*(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 16<sup>th</sup> 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	15 <sup>th</sup> March 2022
2.	Date of Written Statement filed by the Respondent	---
3.	Date of Prima Facie Opinion formed by Director (Discipline)	22 <sup>nd</sup> September 2022
4.	Written Submissions filed by the Respondent after PFO	18 <sup>th</sup> June 2024
5.	Written Submissions filed by the Complainant after PFO	---

5. Brief facts of the Proceedings:

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

Particulars	Date of Meeting(s)	Status
1 <sup>st</sup> hearing	05 <sup>th</sup> June 2023	Adjourned in the absence of the Respondent.
2 <sup>nd</sup> hearing	23 <sup>rd</sup> April 2024	Adjourned at the request of the Respondent.
3 <sup>rd</sup> hearing	17 <sup>th</sup> May 2024	Part heard and adjourned.
4 <sup>th</sup> hearing	18 <sup>th</sup> June 2024	Hearing concluded and Decision taken.

5.2 On the day of the first hearing held on 05<sup>th</sup> June 2023, the Respondent was not present. Considering that the case was fixed for the first time for hearing, the Committee adjourned the case to a future date with a view to extending one more opportunity to the Respondent to defend the charges.

5.3 On the day of the hearing on 23<sup>rd</sup> April 2024, the Committee noted that the Respondent, vide email dated 23.04.2024, has submitted that due to unavoidable circumstances, he would not be able to attend the scheduled hearing. Accordingly, the Respondent sought adjournment in the matter. The Committee, acceding to the request of the Respondent, adjourned the case to a future date.

5.4 On the day of the hearing on 17<sup>th</sup> May 2024, the Committee noted that the authorized representative of the Complainant and the Respondent were present and appeared before it. 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

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Respondent replied that he was aware of the charges and pleaded 'Not Guilty' to the charges levelled against him. In view of Rule 18(9) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee adjourned the case to a future date.

5.5 On the day of the final hearing on 18<sup>th</sup> June 2024, the Committee noted that the authorized representative of the Complainant through VC and Counsel for the Respondent was present in person and appeared before it. The Committee noted that the Respondent was put on oath on 17.05.2024. The Committee also noted that the allegation against the Respondent is that he signed the Financial Statements of the Company without the approval and signatures of the Directors of the Company.

5.6 Thereafter, the Committee asked the Counsel for the Respondent to make submissions. The Counsel for the Respondent submitted Written Submissions dated 18/06/2024 before the Committee. The Committee noted the submissions of the Counsel for the Respondent which, inter alia, are given as under –

- The Company had uploaded the unsigned Financial Statements with Form AOC – 4.
- The Respondent was not assigned the duty of uploading the Financial Statements.
- The Financial Statements (not bearing the signatures of Directors) were signed by the Respondent for discussion purposes only and same were uploaded by Company on website of Registrar of Companies.
- The Directors of the Company, by way of affidavit, had declared that on the request of the Director, the Respondent had signed another set of same Financial Statements for discussion purposes and the said copy not bearing the signatures of the Directors, was inadvertently filed with Registrar of Companies by the Company.

5.7 The authorized representative of the Complainant Department submitted that he had already provided all the documents related to this case and has nothing more to submit in this case and Committee may decide the matter accordingly.

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

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6. Findings of the Committee:

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

- 6.1 The charge against the Respondent is that the Respondent was Statutory Auditor of the Company for Financial Year 2019-2020 and the said Balance Sheet as on 31.03.2020 (financial year 2019-20) signed by the Respondent was not approved / signed by the Directors of the Company. The details of allegation is given in para 2.1 above.
- 6.2 Upon perusal of the Audited Financial Statements of the Company for Financial Year 2019-2020, the Committee noted that the same were signed by the Respondent only and the signatures of Director(s) of the Company were not affixed thereon. Further, during the hearing, the Counsel for the Respondent submitted that the Company had uploaded the unsigned Financial Statements with Form AOC – 4 and the Respondent was not assigned the duty of uploading the Financial Statements. The Financial Statements signed by the Respondent were for discussion purposes only and the same were uploaded by Company on website of Registrar of Companies and he is not responsible for the same.
- 6.3 In view of the above submissions of the Respondent, the Committee observed that the Respondent has nowhere mentioned in the Financial Statements that those were provisional and for the reference / discussion of Management of the Company and therefore did not accept the defence of the Respondent.
- 6.4 The Committee noted that Section 134 of the Companies Act, 2013 stipulated the requirement of signing of Financial Statements, which read as under:-

*"(1) The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board at least by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director and the Chief Executive Officer, if he is a director in the company, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, or in the case of a One Person Company, only by one director, for submission to the auditor for his report thereon."*

- 6.5 In view of specific requirement as contained in Section 134 of the Companies Act, 2013, the Committee was of the view that the Financial Statements of the Company are required to be

signed on behalf of the Board of Directors either by the Chairperson of the Company where he is authorised by the Board or by two directors out of which one shall be managing director and the Chief Executive Officer, if he is a director in the Company, the Chief Financial Officer and the Company Secretary of the Company, wherever they are appointed, for submission to the auditor for his report thereon. But in the instant case, on perusal of the Financial Statements of the Company for the Financial Year 2019-2020, it is on record that these were not signed by the Directors of the Company, and it was signed by the Respondent only.

6.6 The Committee noted that since the Financial Statements audited by the Respondent were not bearing signatures of Chairperson/Directors, meaning thereby that the same were not approved by the Board of the Company, the Respondent should not have accepted the financial statements for audit and accordingly, should not have signed the same as auditor of the Company. Thus, the Respondent failed to ensure compliance of Section 134 of the Companies Act, 2013.

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

6.8. While arriving at its Findings, the Committee also observed that in the background of the instant case the Complainant Department informed that the Company was registered with ROC, NCT of Delhi & Haryana by engaging dummy persons as subscribers to MOA & Directors by furnishing forged documents with falsified addresses / signatures, Director Identification Number (DIN) to MCA. Further, certain professionals in connivance with such individuals/directors/subscriber to MOA assisted in incorporation and running of these Companies for illegal/suspicious activities in violation of various laws by certifying e-forms/various reports etc. on MCA portal with false information concealing the real identities of such individuals. However, no evidence of the involvement of the Respondent to that effect had been brought on record by the Complainant Department. The role of the Respondent was limited to audit of the financial statements of the Company for financial year 2019-20 which has been examined by the Committee.

7. **Conclusion:**

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

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Charges (as per PFO)	Findings	Decision of the Committee
Para 2.1 as above	Para 6.1 to 6.7 as above	<b>GUILTY-</b> Item (7) of Part I of the Second Schedule

8. 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/-

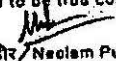
(SHRI JIWESH NANDAN, IAS (RETD.))  
GOVERNMENT NOMINEE

Sd/-

(CA. MANGESH P KINARE)  
MEMBER

DATE: 16/10/2024  
PLACE: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित /  
Certified to be true copy

  
नीलम पुंडीर / Neelam Pundir  
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer  
अनुशासनालय निदेशालय / Disciplinary Directorate  
इन्स्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया  
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