



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/141/22-DD/236/2022/ DC/1719/2023]

In the matter of:

Smt. Seema Rath,

ROC, Kanpur, Uttar Pradesh

Ministry of Corporate Affairs

37/17, Westcott Building, The Mall

Kanpur - 208001

..... Complainant

Versus

CA. Devi Prasad Chaurasia (M. No. 096331)

C-3/49, Yamuna Vihar

Delhi - 110053

..... 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)
5. CA. Abhay Chhajed, Member (Through VC)

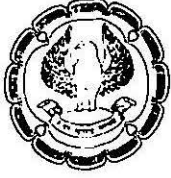
DATE OF HEARING : 03rd February 2025

DATE OF ORDER : 08th February 2025

1. That vide Findings dated 15.10.2024 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. Devi Prasad Chaurasia (M. No. 096331) (hereinafter referred to as the Respondent") is 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.

Dr M



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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 03rd February 2025.

3. The Committee noted that on the date of the hearing on 03rd February 2025, the Respondent was present through video conferencing. During the hearing, the Respondent reiterated his written submissions dated 08th November 2024 on the Findings of the Committee, which, inter alia, are given as under:-

(i) That the requirement of clause (f) to subsection (1) of Section 7 of the Companies Act, 2013, has to be complied with if First Directors do not have DIN.

(ii) In Spice Form INC-32, when the DIN of the First Director is entered, Spice Form disables the requirement of attaching the identity and address proof, which may be due to the reason that KYC of the DIN holder is already in records of MCA.

(iii) In Spice Form INC-32, all the details like address, father's name, PAN, Aadhaar, phone number, etc. are not enabled for first directors who hold valid DIN; therefore, all the details as required by clause (f) to subsection (1) of Section 7 of the Companies Act, 2013 cannot be entered in the Form.

(iv) The requirement of attaching identity and address proof and all the columns has to be filled only when the First Director has not been allotted DIN.

(v) That the premises were given free of rent for the time being because Mr. Ajay Singh assured the Respondent that he will take another premises on lease after incorporation of the company.

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(vi) Mr. Ajay Singh is known to the Respondent, and at his request, the Respondent gave his premises for some time for free of rent.

(vii) He is not the auditor of the Company involved i.e. M/s Newmine Technology Private Limited.

(viii) He does not know the Chinese director of the Company.

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

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 observed that the Respondent before giving his declaration in the e-form that "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"; was required to verify whether the Company has actually complied with the requirement of Section 7 of the Act. The Committee noted that the Respondent in his initial written submissions dated 30th May 2023, admitted his mistake of not attaching the Proof of identity of Mr. Ajay Singh in the eForm but in subsequent submissions dated 05th April 2024 and 08th November 2024, however, he submitted that there was no requirement of attaching proof of identity of Mr. Ajay Singh being the first Director of the Company in the said Form.

6. In light of the provisions of clause (f) to subsection (1) of Section 7 of the Companies Act, the Committee was of the view that the requirement of attaching a proof of identity of the first Director in e-form Spice INC-32 has to be complied with and therefore the plea of the Respondent that there was no requirement of attaching proof of identity of Mr. Ajay Singh not being first subscriber is not acceptable as he was the First Director of the Company. The Committee also noted that as per the submissions of the Complainant, the subject Company was



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fulfilling the parameters of a shell Company which was not doing any business and there was a clear omission in filing of Balance sheet(s)/ return(s) and requisite Forms by it and hence the Company could not be allowed to operate solely on the basis of a registered office. Looking into the overall aspects as aforesaid, the Committee noted that the failure on the part of the Respondent for not verifying the requirements of the Companies Act, 2013, appropriately shows that the Respondent has not performed his professional duties diligently.

7. Further, the Committee noted the submissions of the Respondent that Mr. Ajay Singh, Director of the Company, was known to him, and on his request, the Respondent gave his premises to the Company free of rent. In this regard, the Committee noted that the Company has changed its registered office from Respondent's premises to another place in the month of November 2020, i.e., after 10 months of incorporation of the Company.

8. The Committee further noted that the incorporation documents among others required to be attached with the Spice Form INC 32 included notarized copy of lease or rent agreement in the name of the Company (i.e., ownership papers of the premises) as per the provisions of Companies Act, 2013 but the Respondent did not bring on record the copy of same to show that he had permitted the Company to use his address as the registered office address of the Company. The Committee was unable to appreciate the fact as to why a professional who was merely engaged in incorporation of a Company would allow to use his premise for the said purpose and that too without any consideration, especially when he is not knowing or having any relations with all the concerned persons. Hence, the Professional and Other Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 15.10.2024 which is to be read in consonance with the instant Order being passed in the case.

9. Accordingly, the Committee was of the view that the ends of justice would be met if punishment is given to him in commensurate with his Professional and Other Misconduct.

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10. Thus, the Committee ordered that the Respondent i.e., CA. Devi Prasad Chaurasia (M. No. 096331), be REPRIMANDED, under Section 21B(3)(a) of the Chartered Accountants Act, 1949.

Sd/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

Sd/-

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

Sd/-

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

Sd/-

(CA. MANGESH P KINARE)
MEMBER

Sd/-

(CA. ABHAY CHHAJED)
MEMBER

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

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

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/141/22-DD/236/2022/ DC/1719/2023]

In the matter of:

Smt. Seema Rath,
ROC, Kanpur, Uttar Pradesh
Ministry of Corporate Affairs
37/17, Westcott Building, The Mall
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..... Complainant

Versus

CA. Devi Prasad Chaurasia (M. No. 096331)
C-3/49, Yamuna Vihar
Delhi - 110053

..... Respondent

MEMBERS PRESENT:

CA. Ranjeet Kumar Agarwal, Presiding Officer (In person)
Shri Jiweesh Nandan, I.A.S (Retd), Govt. Nominee (In person)
CA. Mangesh P. Kinare, Member (In person)
CA. Abhay Chhajed, Member (In person)

DATE OF FINAL HEARING : 10th April 2024

DATE OF DECISION TAKEN : 28th May 2024

PARTIES PRESENT:

Complainant : Smt. Seema Rath (Through VC)

Respondent : CA. Devi Prasad Chaurasia (Through VC)

1. Background of the Case:

- 1.1 In the instant case, after examination of the SPICe Form INC-32 of 'M/s Newmine Technology Private Limited' certified by the Respondent, some irregularities were found by the Complainant department.

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2. Charges in brief:

- 2.1. The Complainant department alleged that in the SPICe Form INC-32 filed vide SRN R26290650 dated 24.12.2019 of 'M/s Newmine Technology Private Limited' certified by the Respondent, it was found that proof of identity and address proof of Mr. Ajay Singh, first Director of the Company had not been attached. Hence, it was alleged that the Respondent had been grossly negligent in his duties as despite the above irregularities, he certified SPICe Form INC-32.
- 2.2. The Complainant Department made a general allegation of the connivance of the professionals with Directors/ subscribers to MOA and Chinese individuals of alleged fraudulent Companies for providing assistance in running of these companies for illegal/suspicious activities.

3. The relevant issues discussed in the Prima Facie Opinion dated 26th September, 2022 Formulated by the Director (Discipline) in the matter in brief, are given below:

- 3.1. The proof of identity of first Directors is required to be filed along with the incorporation documents and in the extant case since Mr. Ajay Singh was found to be mentioned in Articles of Association of the Company {downloaded from MCA website} as first Director of the Company, his proof of identity was required to be submitted while applying for incorporation of the Company in SPICe Form which, however, was not attached while submitting the Form to Complainant Department.
- 3.2. The Respondent in his Written Statement has admitted his mistake by stating that he had not attached Proof of identity and residential address of Ajay Singh (first Director). However, he has put forth the identity proofs of Mr. Ajay Singh along with his Written Statement viz. copy of his Aadhar card, PAN and cover/front page of bank passbook for the perusal of Directorate.
- 3.3. The Respondent had not performed his professional duties diligently; and without verifying whether the specific requirement of Section 7 of the Companies Act, 2013 of attaching proof of identity with such SPICe Form was fulfilled or not, he had given false declaration that all the requirements of the Companies Act, 2013 were complied with. Accordingly, the Respondent was held prima facie Guilty of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountant Act, 1949.
- 3.4. In respect of general allegation of the Complainant Department, of connivance of the professionals with the Directors/Subscribers to MOA/Chinese individuals of the alleged fraudulent companies, it was mentioned that the Complainant in respect of this allegation

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has not put forth any single piece of detail or evidence against the Respondent. However, the act of the Respondent raised a serious doubt on his intention to hide the facts from the Disciplinary Directorate as it was really incomprehensible that why a professional who was merely engaged for incorporation of a company would allow to use his premise for the said purpose and that too without any monetary gain. Hence, his connivance with the alleged Chinese Nationals could not be ruled out at this stage and especially when it is on record that one of the first subscribers of the subject Company is a Chinese Company i.e., M/s. Mixelf Limited while the other subscriber is a Chinese national i.e., Ms. Ping Zhang.

- 3.5. The Director (Discipline) in his Prima Facie Opinion dated 26th September, 2022 opined that the Respondent was prima facie **Guilty** of Professional and Other Misconduct falling within the meaning of Item (2) of Part IV of First schedule and Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949. The said items of the Schedule to the Act, states as under:

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

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

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

Item (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."

- 3.6. The Prima Facie Opinion Formed by the Director (Discipline) was considered by the Disciplinary Committee in its meeting held on 16th 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 and Other Misconduct falling within the meaning of item (7) of Part – I of the Second Schedule and item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

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4 **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 'I' filed by the Complainant	29 th April, 2022
2.	Date of Written Statement filed by the Respondent	06 th June 2022
3.	Date of Rejoinder filed by the Complainant	-----
4.	Date of Prima Facie Opinion Formed by Director (Discipline)	26 th September 2022
5.	Written Submissions filed by the Respondent after PFO	30 th May 2023 05 th April 2024
6.	Written Submissions filed by the Complainant after PFO	-----

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

The Respondent vide letter dated 30th May 2023, and vide email dated 05th April 2024, inter-alia, made the submissions which are given as under:-

5.1 **Submissions made by the Respondent vide letter dated 30th May 2023:-**

(i) **Regarding the allegation of proof of identity and address proof of Mr. Ajay Singh, First Director of the Company has not been attached-**

DIN was already allotted to Mr. Ajay Singh, and he was also Director in other Companies and in SPICe Form there is no column of address and also SPICe Form does not require to attach Proof of Identity and address of Applicant II as he was already holding DIN. However, Proof of identity and residential address of Mr. Ajay Singh as required by item 14 of attachments of SPICe Form was not attached by mistake.

(ii) The Respondent apologized for not attaching the Proof of identity and residential address of Ajay Singh in SPICe Form. He also annexed a copy of PAN and Aadhar of Mr. Ajay Singh with his submissions.

(iii) That the part of the premises was given on free of rent, and therefore, no Rent Agreement was executed and the same was not attached with the SPICe Form.

(iv) He had uploaded the SPICe Form along with documents and did not receive any objection from ROC who has approved the Form. There was nothing intentional, and some discrepancies that existed were only by mistake.

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(v) The Respondent requested to the Committee not to take any penal action against him.

5.2. **Submissions made by the Respondent vide email dated 05th April 2024:-**

- (i) The Respondent stated that he wrongly admitted in his earlier submissions dated 06th June 2022 that he failed to attach proof of Identity and residential address of Mr. Ajay Singh (first Director) as required by item 14 of attachments of SPICe Form, whereas item 14 requires the attachment of First subscribers and Ajay Singh was not the subscriber, hence there was no need to attach identity and address proof of Mr. Ajay Singh.
- (ii) In SPICe Form, there is no column for attachment of identity and address proof of Applicant II who holds a valid DIN. It is also mentioned in the Instruction KIT for Spice Form INC-32 that "If any of the Director (including subscriber cum director) does not have DIN, then it is mandatory to attach proof of identity and residential address of such Director."
- (iii) As Mr. Ajay Singh was already holding a valid DIN, there was no need to attach his identity and address proof as the first Director in the Company.
- (iv) That the part of the premises was given free of rent, and no rent agreement was executed and also there is no specific requirement either in instruction kit or anywhere that rent agreement is mandatory to be attached with Spice Form INC-32.
- (v) The Respondent requested to the Committee not to take any penal action against him.

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	Part heard and Adjourned.
2 nd Hearing	10 th April 2024	Hearing concluded and Judgment Reserved
	17 th May 2024	Deferred due to paucity of time
	28 th May 2024	Decision taken

6.2. On the day of first hearing on 05th June 2023, the Committee noted that the Respondent was present through Video conferencing mode. However, the Complainant was not present.

6.3. 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 and charges against the Respondent were read out. On the same, the Respondent replied that he was aware of the charges and pleaded Not Guilty to the charges levelled against him. In the absence of the Complainant and in view of Rule 18 (9) of the Chartered Accountants

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(Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee adjourned the case to later date.

- 6.4. On the day of the final hearing on 10th April 2024, the Committee noted that the Complainant and the Respondent were present through Video Conferencing mode. The Committee noted that the case was part heard and Respondent was already on oath. Thereafter, the Committee asked the Respondent to make submissions in his defense. The Respondent, in reply to the same, while reiterating his submissions as contained in his written submissions dated 30/05/2023 and 05/04/2024, submitted that he had no knowledge as to whether the subject Company is presently operational or not. He submitted that Director of the Company, Mr. Ajay Singh was already holding valid DIN and therefore, there was no separate requirement to attach his identity and address proof with Form INC – 32. He submitted that as part of the premises was given free of rent, no rent agreement was executed and also there is no specific requirement either in instruction kit or anywhere that rent agreement is mandatory to be attached with SPICe Form, INC-32. Moreover, he submitted that Mr. Ajay Singh was Indian national and was known to him.
- 6.5. Further, the Committee asked the Complainant to make her submissions. The Complainant stated that the allegations have been explained in detail in the Complaint along with supporting evidence. The Complainant submitted that at present, the subject Company has been struck off from the Register of Companies. The Complainant further submitted that the subject Company was fulfilling the parameters of a shell company which was not doing any business and there was a clear omission in filing of Balance Sheet(s)/return(s) and requisite Forms by it and hence the Company could not be allowed to operate solely on the basis of a registered office.
- 6.6. Based on the documents and material available on record and after considering the oral and written submissions made by both the parties, the Committee concluded the hearing in the matter and judgment was reserved. The Committee directed the Respondent to file further written submissions, if any, in the matter within 10 days with a copy to the Complainant.
- 6.7. On 17th May 2024, the subject case was fixed for taking decision in the matter. However, consideration was deferred by the Committee due to paucity of time.
- 6.8. Thereafter, in the meeting held on 28th May 2024, the Committee noted that the subject case was heard by it at length in the presence of the Complainant and the Respondent and the hearing was concluded at its meeting held on 10.04.2024 and the judgment was reserved. The Committee further noted that during the hearing held on 10.04.2024, it had directed the

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Respondent to submit his written submissions, if any, within 10 days with a copy to the Complainant.

- 6.9. The Committee noted that the Respondent, on its direction, vide email dated 03rd May 2024, submitted his written submissions, which, inter-alia, are given as under:-
- (i) DIN was already allotted to Mr. Ajay Singh, Director who was also Director in other companies; and in SPICe Form there is no column for address and it does not require to attach proof of identity and of address with Director already holding DIN.
 - (ii) Since part of the premises was given to the Company free of rent, no rent agreement was executed.
 - (iii) ROC approved the Spice Form. If anything happened in the Company after incorporation, the Respondent cannot be held responsible.
 - (iv) There was no requirement of Rent agreement to be attached with the Spice Form and same was not attached.
 - (v) ROC should be satisfied with the fact that address is genuine and identifiable, and landlord has given the permission to the Company to use the place otherwise there should be clear instruction that this document should be attached. There is no such instruction that Rent Agreement should be attached.
- 6.10. After detailed deliberations, and on consideration of the facts of the case, various documents on record as well as oral and written submissions made by parties before it, the Committee took the decision on the conduct of the Respondent.

7. **Findings of the Committee:-**

- 7.1. The Committee noted the **first charge** against the Respondent, that in the SPICe Form INC-32 filed vide SRN R26290650 dated 24.12.2019 of M/s Newmine Technology Private Limited certified by the Respondent, it was found that proof of identity and address proof of Mr. Ajay Singh, first Director of the Company had not been attached.
- 7.2. The Committee noted the purpose of eForm, Law governing the said Form and other Characteristics of eForm SPICe (INC-32), as under:-

Law governing the eForm

"eForm SPICe (INC-32) is required to be fill in pursuance of sections 4, 7, 12, 152 and 153 of the Companies Act, 2013 read with rules made thereunder"

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Purpose of the eForm

"eForm SPICe (INC-32) deals with the single application for reservation of name, incorporation of a new company and/or application for allotment of DIN. This eForm is accompanied by supporting documents including details of Directors & subscribers, MoA and AoA etc. Once the eForm is processed and found complete, company would be registered and CIN would be allocated. Also DINs gets issued to the proposed Directors who do not have a valid DIN."

Signing of the eForm

eForm is digitally signed by the Director and shall be certified by the practicing professional.

Declaration and certification by Professional in eForm

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;

(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.

- 7.3. On perusal of eForm SPICe INC-32 of the Company on record, it is noted that the Respondent had certified the aforesaid Form on 24th December 2019 and also given his declaration as required therein. The Committee took note of the pertinent portion of the Respondent's declaration in the eForm, which asserted as under:-

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"I further certify that:

.....
(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".

7.4. The Committee considered the provisions of sub-section (1) of Section 7 of the Companies Act, 2013 in this regard, which reads as under: -

7. Incorporation of company:- (1) There shall be filed with the Registrar within whose jurisdiction the registered office of a company is proposed to be situated, the following documents and information for registration, namely:—

(a) the memorandum and articles of the company duly signed by all the subscribers to the memorandum in such manner as may be prescribed;

(b) a declaration in the prescribed Form by an advocate, a chartered accountant, cost accountant or company secretary in practice, who is engaged in the Formation of the company, and by a person named in the articles as a Director, manager or secretary of the company, that all the requirements of this Act and the rules made thereunder in respect of registration and matters precedent or incidental thereto have been complied with;

(c) a declaration from each of the subscribers to the memorandum and from persons named as the first Directors, if any, in the articles that he is not convicted of any offence in connection with the promotion, Formation or management of any company, or that he has not been found guilty of any fraud or misfeasance or of any breach of duty to any company under this Act or any previous company law during the preceding five years and that all the documents filed with the Registrar for registration of the company contain in Formation that is correct and complete and true to the best of his knowledge and belief;

(d) the address for correspondence till its registered office is established;

(e) the particulars of name, including surname or family name, residential address, nationality and such other particulars of every subscriber to the memorandum along

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with proof of identity, as may be prescribed, and in the case of a subscriber being a body corporate, such particulars as may be prescribed;

(f) the particulars of the persons mentioned in the articles as 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

(g) the particulars of the interests of the persons mentioned in the articles as 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.

- 7.5. On perusal of attachments to eForm INC-32 of the Company certified by the Respondent, the Committee observed that the Proof of identity of Mr. Ajay Singh (being the first Director of the Company) as per the requirement of clause (f) of Section 7(1) of the Companies Act, 2013 was not attached.
- 7.6. The Committee noted that the Respondent in his further written submissions dated 30th May 2023, admitted his mistake of not attaching the Proof of identity of Mr. Ajay Singh in the eForm but in subsequent submissions dated 05th April 2024, the Respondent, however, submitted that there was no requirement of attaching proof of identity of Mr. Ajay Singh being the first Director of the Company in the said Form, as he was already holding a valid DIN. The Respondent also referred to Item 14 of the attachment of the eForm INC-32 i.e. Proof of identity & residential address of subscribers and stated that Item 14 requires the attachment of First Subscribers only and since, Mr. Ajay Singh was not the subscriber, hence there was no need to attach his identity and address proof.
- 7.7. In light of the provisions of clause (f) to subsection (1) of Section 7 of the Companies Act, the Committee was of the view that the requirement of attaching a proof of identity of the first Director in e-form Spice INC-32 has to be complied with and therefore the plea of the Respondent that there was no requirement of attaching proof of identity of Mr. Ajay Singh not being first subscriber is not acceptable as he was the first Director of the Company..
- 7.8. The Committee opined that the Respondent before giving his declaration in the e-form that *"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"*; was required to verify whether the Company has actually complied with the requirement of Section 7 of the Act. Hence, the failure on the part of the

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Respondent for not verifying the requirements of the Companies Act, 2013 appropriately shows that the Respondent has not performed his professional duties diligently. Accordingly, the Committee held that the Respondent was **Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act 1949.

- 7.9. In respect of **second charge** of the Complainant Department of connivance of the professionals with the Directors/Subscribers to MOA/Chinese individuals of the alleged fraudulent companies, the Committee observed that the Complainant Department, in respect of this allegation, did not bring on record any detail or evidence against the Respondent but the Respondent in his written submissions dated 30th May 2023 and 05th April 2024 stated that he has given part of his premises to the Company on free of rent, and therefore no rent agreement was executed for the same. The Committee noted that the Respondent during the hearing stated that Mr. Ajay Singh, first Director of the Company was known to him, but the Respondent did not submit the reason for giving his premises to the Company on rent without any consideration. The Committee was unable to appreciate the fact as to why a professional who was merely engaged for incorporation of a Company would allow to use his premise for the said purpose and that too without any consideration, especially when he is not knowing or having any relations with all the concerned persons. The Committee observed that the Respondent did not produce any evidence in support of his defence that he was not supporting the Company/ Director in the formation of the Company, and therefore the Committee concluded that the Respondent had assisted these persons in the formation of the Company by omitting material facts/ information. Accordingly, the Committee held that the Respondent was 'Guilty' of Other Misconduct falling within the meaning of 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 7.8 as above	Guilty- Item (7) of Part I of the Second Schedule
Para 2.2 as above	Para 7.9 as above	Guilty- Item (2) of Part IV of First Schedule

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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 and Other Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule and Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

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

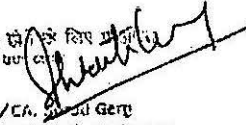
Sd/-
(SHRI JIWESH NANDAN, I.A.S. (RETD.))
GOVERNMENT NOMINEE

Sd/-
(CA. MANGESH P KINARE)
MEMBER

Sd/-
(CA. ABHAY CHHAJED)
MEMBER

DATE: 15/10/2024

PLACE: New Delhi

सदस्य प्रतिनिधि के रूप में लिए प्रमाणित
Certified to be true copy

वीए चहाजद / CA. Abhay Chhajed
सहायक निदेशक / Assistant Director
अनुशासनकारक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आचार्यपथर्ष भवन, विनायक मण्डल, शाहपुरा, दिल्ली-110022
ICAI (Institution), Vishwas Nagar, Etahda, Delhi-110022