



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/27/22/DD/83/2022/DC/1730/2023]

In the matter of:

Ms. Kamna Sharma,
Deputy ROC, NCT of Delhi & Haryana,
Ministry of Corporate Affairs,
4th Floor, IFCI Tower,
61, Nehru Place
New Delhi – 110 019

...Complainant

Versus

CA. Praveen Murarka (M.No.513907)
Office no. 102, 82-83, Main Vikas Marg,
Above Titan Eye Showroom, Laxmi Nagar,
Delhi – 110 092

MEMBERS PRESENT:

1. CA. Ranjeet Kumar Agarwal, Presiding Officer (In person)
2. Shri Jiwesh Nandan, IAS (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 30/12/2024 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. Praveen Murarka

3/ Am



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

(M.No.513907) (hereinafter referred to as the Respondent") is **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of 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 opportunity of being heard in person/ through video conferencing and to make representation before the Committee on 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 noted that the Respondent vide email dated 19/01/2025 had sought adjournment for the meeting held on 20/01/2025, which was acceded to by it. The Committee, however, provided a final opportunity to the Respondent to appear before it before passing any Order against him. The Committee directed the office to inform the Respondent to appear before it at the time of the next listing and in case of his failure to appear, the matter would be decided ex-parte based upon the documents and material available on record. The Committee further noted that the Respondent had neither filed any written representation on the findings of the Committee in captioned case nor had appeared before it despite the fact that he was specifically informed through notice dated 22/01/2025 to appear in the hearing fixed on 03/02/2025 failing which the matter would be decided ex-parte. Moreover, the Committee observed that this case was fixed six times before it for hearing(s) under Rule 18 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, however, the Respondent did not appear before it, and the Committee had decided the matter ex-parte at the stage of Rule 18.

4. 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 as regards charge related to M/s. Fin

2/ An



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

Black Rock Private Limited (Formerly known as M/s. Sunhara Bird India Private Limited) – signatures of Mr. Charlie Peng in Form DIR - 2 was different in comparison with signatures as contained in PAN card and self-attested copy of Aadhar card of Mr. Charlie Peng which were part of Form DIR – 12 filed in case of M/s. OTA New Delhi Private Limited. Further, despite knowing that PAN card of Mr. Charlie Peng was already surrendered on 05th March 2018, the Respondent had certified the DIR-12 Form on 16th March 2018 containing Form DIR-2 which mentioned PAN which was already surrendered by the Director. Moreover, request/consent letter dated 15/03/2015 of Mr. Charlie Peng to become the Director of the Company, was not signed by Mr. Charlie Peng. The Committee viewed that the Respondent's declaration given in Form DIR – 12 that he has verified the particulars including attachments and found them to be true, correct and complete, was factually not correct. The Committee thus viewed that the Respondent has adopted a very casual approach while certifying the Form DIR – 12 as he had submitted the records/ papers/ documents containing false/ misleading information with Government authorities.

5. As regards charges related to M/s. Inwin Logistics Private Limited – the Committee observed that signatures of Mr. Charlie Peng as contained in attachments filed with SPICe Form i.e. affidavit(s) in Form(s) INC 9, INC, 10 and DIR – 2 of subject Company were different in comparison with signatures of Mr. Charlie Peng as contained in Form DIR – 2 filed in case of M/s. Fin Black Rock Private Limited. Further, signatures contained in PAN card and self-attested copy of Aadhar card of Mr. Charlie Peng are also not tallying with signatures contained in attachments filed with SPICe Form. In view of this, the Committee was of the opinion that it was the duty of Respondent to check, and upload correct, complete and valid documents with Government authorities, which the Respondent failed to do so. Thereafter, the Committee observed that the Company name entered in an Affidavit, STK – 4 (which is the main supporting attachment) and actual name of the Company are so different and that cannot be a mere typographical error that clearly shows casual approach and gross negligence of the Respondent. Thus, the Committee viewed that the Respondent has adopted a casual approach towards his professional duties.

2/ Ar



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

6. As regards charges related to M/s. Clean Harbours Private Limited – the Committee observed that the Respondent had admitted his mistake and submitted that Director of the Company was having two addresses. The Committee was of the view that a Chartered Accountant is required to verify the authenticity and completeness of the documents while certifying e-forms, however, the Respondent did not exercise due diligence in conduct of his professional duties as there were different addresses of the Director in the attachments filed with SPICe INC – 32. Hence, the Professional Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 30th December 2024 which is to be read in consonance with the instant Order being passed in the case.

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

8. Thus, the Committee ordered that the name of the Respondent i.e. CA. Praveen Murarka (M.No.513907), Delhi be removed from the Register of members for a period of 06 (Six) months under Section 21B(3)(b) of the Chartered Accountants Act 1949. The Committee further directed that this punishment order is independent and shall run consecutive to the punishment awarded to the Respondent in another disciplinary case [i.e. PR/G/47/22/DD/355/2022/DC/1698/2022].

Sd/-

(CA. RANJEET KUMAR AGARWAL)

PRESIDING OFFICER

Sd/-

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

GOVERNMENT NOMINEE

Sd/-

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

GOVERNMENT NOMINEE

Sd/-

(CA. MANGESH P KINARE)

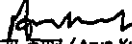
MEMBER

Sd/-

(CA. ABHAY CHHAJED)

MEMBER

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy


अरुण कुमार / Arun Kumar
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विज्ञान 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/27/22-DD/83/2022/DC/1730/2023]

In the matter of:

Ms. Kamna Sharma,
Deputy ROC, NCT of Delhi & Haryana,
Ministry of Corporate Affairs,
4th Floor, IFCI Tower,
61, Nehru Place
New Delhi – 110 019

...Complainant

Versus

CA. Praveen Murarka (M.No.513907)
Office no. 102, 82-83, Main Vikas Marg,
Above Titan Eye Showroom, Laxmi Nagar,
Delhi – 110 092

...Respondent

MEMBERS PRESENT:

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

DATE OF FINAL HEARING : 29th August 2024

PARTIES PRESENT:

Complainant : Mr. Gaurav, Dy. ROC – Authorized Representative of the
Complainant (through VC)

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/ shareholders/ 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.

- 1.2 It is stated that some companies/individuals/entities who were directly or indirectly connected with the 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.
- 1.5 The Respondent was associated with three Companies namely- M/s. Fin Black Rock Private Limited, M/s. Inwin Logistics Private Limited and M/s. Clean Harbours Private Limited and has certified incorporation and other documents related to these Companies viz. Form INC - 32, Form DIR-12 and Form STK - 2.

2. Charges in brief:

2.1 **In respect of M/s. Fin Black Rock Private Limited (Formerly known as M/s. Sunhara Bird India Private Limited) -**

The signatures of Mr. Charlie Peng on various documents attached with e-form DIR 12 differs on all attachments including PAN (DIVPP7419G) on which signature of Mr. Charlie Peng is appearing. The Respondent had certified Form DIR 12 along with all attachments without due diligence. All self-attested signatures of Mr. Charlie Peng on the Form DIR 12 are forged and certifying Professional i.e., the Respondent has connived with Mr. Peng in appointing Chinese National as director in the said Company for running the business for suspicious and illegal activities. In MCA 21 portal, Mr. Charlie Peng has filed two DIR 12 (G79576730, H59359679) having different PANs of Mr. Peng (PAN DIVPP7419G Fin Black Rock) and EIYPP2819E (OTA New Delhi) respectively. The Respondent certified e-form DIR 12 (SRN G79576730) in respect of Mr. Charlie Peng, Chinese Person with forged self-attestation attachments and also failed to verify Mr. Charlie Peng's correct PAN number and did not ensure original signature of Mr. Charlie Peng on each attachment before filing DIR 12.

2.2 In respect of M/s Inwin Logistics Private Limited –

- i. In the subject Company, Mr. Charlie Peng was director and subscriber and Mr. Peng's PAN (DIVPP7419G) was used in incorporation of the subject Company but signature on various documents attached with SPICe form are also not tallying with the documents filed (i.e., DIR 12) for appointment in the Company namely Fin Black Rock India Pvt Limited.
- ii. The attachment (STK-4) with the Form STK-2 contains the name of Company as Digiearn Facilitation Services Private Limited instead of Inwin Logistics India Private Limited. On raising query in this regard, the Company through its director Mr. Charlie Peng has submitted tempered STK-4 (Affidavit) & STK-3 (Indemnity Bond).

2.3 In respect of M/s Clean Harbours Private Limited –

Mr. Peng is showing different addresses in the attachment to e-form INC 32 vide SRN R18172320 dt 28.11.2019 and in affidavits attached to the said e-form. Address in the Attachment to INC 32 is - F-194, The Park Place, 19th Floor, DLF Phase-5, Golf Course Road, Chakarpur (74), Gurgaon, Haryana – 122 002 and address in the Affidavits attached to INC 32 is - Flat No. B-206, NTPC Apartment, Plot no. 10, Sector-19, Dwarka, Delhi – 110 075. The Respondent has certified the said Form INC 32 knowingly that he is introducing Chinese person in subject Company with forged/ false/ duplicate/ address to incorporate a shell Company for illegal and suspicious activities.

Hence, Mr. Charlie Peng is misleading the public authorities about his address, self-attested signatures and using two different PAN no (EIYPP2819E and DIVPP7419G) in connivance with the Respondent.

3 The relevant issues discussed in the Prima Facie Opinion dated 06th September 2022 formulated by the Director (Discipline) in the matter, in brief, are given below:

3.1 With respect to M/s Fin Black Rock Private Limited (Formerly known as M/s. Sunhara Bird India Private Limited) -

The Respondent has merely submitted that signature of an individual may differ from signature on PAN Card. It is observed that signatures of Mr. Charlie Peng on Form DIR-2 are different on page 1 and 2 of said Form. Further it is also observed that letter dated 15th March 2018 sent by Mr Peng to Board of Directors is unsigned and the same was uploaded with Form DIR 12.

- 2
- 3.2 On perusal of attachments attached with Form DIR 12, it was noted that signatures of Mr Charlie Peng are different on both pages of DIR-2 and further letter dated 15th March 2018 sent by Mr. Charlie Peng to Board of Directors to appoint him as Director is also unsigned. It

was the duty of Respondent to check, and upload correct, complete and valid documents. Since signatures are different on same Form DIR 2 and letter is unsigned, it clearly indicates that the attachments are not complete besides raising suspicion on genuineness of documents. Further, the PAN mentioned on DIR-2 is DIVPP7419G which is claimed by the Respondent to have been surrendered on 05th March 2018. Despite knowing that PAN was already surrendered on 05th March 2018, he certified the DIR-12 Form on 16th March 2018 (merely after 10 days) containing DIR-2 Form as an attachment which was admittedly having misleading/ incorrect information. The submissions of the Respondent that his staff had filled the same in the form inadvertently is nothing but an afterthought and merely an attempt to shift his responsibility to his staff. Hence, it was clear that the Respondent has adopted a very casual approach while certifying the form as he has submitted the records/ papers/ documents containing false information with government authorities. Hence, 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 Accountants Act, 1949.

3.3 With respect to M/s Inwin Logistics Private Limited-

The Respondent admitted that signatures of Mr Peng have been different on all documents. The Respondent has brought on record evidence which shows that one of the PAN Card of Mr Peng i.e., DIVPP7419G was surrendered on 05th March 2018. It is also on record that the SPICe Form of the Company as well as strike off Form STK-2 with regard to removing its name from register of Companies has been certified by the Respondent. On the other hand, at Rule 8(5) stage, the Respondent has merely mentioned that he verified Aadhar Card, copy of passport having valid visa in case of foreign directors, rent agreement, NOC and utility bill etc, but remained silent on the fact/ issue as to whether he had relied upon original documents or certified copy of the documents while certifying SPICe form. The Respondent as professional appears to have failed to verify the authenticity and completeness of the documents and has not brought on record any evidence which may show that he had physically verified the registered office of the Company as well. He has mentioned in his submissions that he is not having documentary proof of visit. In this regard, it was observed that one of the attachments of SPICe form was Office address Proof. It was observed that the Respondent did not even took pain to submit this basic document with SPICe form. Accordingly, in absence of any documentary evidence from the Respondent, it was opined that he failed to exercise due diligence while certifying the incorporation form of the Company. Thus, 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 Accountants Act, 1949.

3.4 Regarding second charge, it was observed that as per the affidavit, para v, of Form STK-4 which was attached with Form STK-2, the name of Company was mentioned as Digiearn Inwin

Logistics India Private Limited while the correct name of the Company was Inwin Logistics India Private Limited which clearly shows the casual approach of the Respondent while performing his professional duties. Accordingly, it was opined that he failed to exercise due diligence while certifying the form STK-2 of the Company. Thus, 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 Accountants Act, 1949.

3.5 With respect to M/s Clean Harbours Private Limited-

It was admitted by the Respondent that wrong address proof was submitted though he stated that the same happened inadvertently. It is on record that the said e-form 32 was certified by the Respondent. At Rule 8(5) stage, the Respondent was asked to submit details regarding copy of documents verified/ checked/ relied by him before certifying various forms. In response to the same, the Respondent had mentioned rent agreement, NOC Utility bill etc, but had failed to submit the copy of any of the same in his defence. This indicates that the Respondent had not checked any documents and failed to verify the authenticity and completeness of the documents while certifying Spice form. Further, he had not brought on record any evidence which may show that he had physically verified the registered office of the Company as well. He mentioned that he is not having documentary proof of visit. The absence of documentary evidence in support of defence from the Respondent and the acceptance of inadvertent mistakes by him led to conclusion that the Respondent failed to exercise due diligence while certifying the incorporation form of the Company. Thus, 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 Accountants Act, 1949.

3.6 Accordingly, the Director (Discipline) in his Prima Facie Opinion dated 06th 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 items of the Schedule to the Act, states as under:

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

"A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he:

x x x x x x

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

3.7 The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee in its meeting held on 07th March 2023. The Committee on

consideration of the same, concurred with the reasons given against the charges and thus agreed with the prima facie opinion of the Director (Discipline) that in terms of reasoning as mentioned in para 8 to 8.14 of the prima facie opinion, the Respondent is prima facie GUILTY of Professional Misconduct falling within the meaning of Item (7) of Part 1 of Second Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

4. Dates of Written Submissions/ Pleadings by the Parties:

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

S. No.	Particulars	Dated
1.	Date of Complaint in Form 'I' filed by the Complainant	30 th December 2021
2.	Date of Written Statement filed by the Respondent	Dated NIL- Received on 18 th April 2022
3.	Date of Rejoinder filed by the Complainant	21 st July 2022
4.	Date of Prima Facie Opinion formed by Director (Discipline)	06 th September 2022
5.	Written Submissions filed by the Respondent after PFO	28 th April 2023
6.	Written Submissions filed by the Complainant after PFO	Not filed

5. Written Submissions' filed by the Respondent:

The Respondent, vide letter dated 28th April 2023 had, inter alia, made the submissions which are given as under –

- a) As regards general allegations, no evidence of alleged forgery of documents have been provided by the Complainant. No copy of FIR registering complaint against any person supporting the allegation of using forged and/or falsified documents has been provided to substantiate the same. In absence of same, no cognizance be kindly taken as it lacks evidence and corroboration.
- b) He could have been said to be negligent only if there was a failure on his part to exercise reasonable care while carrying out his professional duties. However, in the instant case, there was no failure on the Respondent's part as the charges are of nature which does not affect the correctness of various e-Forms certified by the Respondent and at most can be regarded as mistakes only.

- c) **With respect to M/s. Fin Black Rock Private Limited (Formerly known as M/s. Sunhara Bird India Private Limited)**, there is no criteria that signature should match with the PAN card and even if there is doubt about the signature then it get verified by Mr. Peng . The surrendered PAN card (PAN DIVPP7419G) was attached inadvertently with DIR-12 without any ill motive.
- d) **With respect to M/s. Inwin Logistics Private Limited**, regarding non submission of documents relied upon, reliance was placed on Director's aadhar card, PAN card (copy attached). Further, regarding mismatch in the name of Company, the name Digiearn Inwin Logistics India Private limited was mentioned in the form instead of Inwin logistics India Private limited. The same was just a typographical error mistake.
- e) **With respect to M/s. Clean Harbours Private Limited**, documents submitted were duly verified with original documents for which the Respondent has no doubt, so the documents are neither forged nor false. The Director of the Company was having two different addresses out of which one address was an old address.

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

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

S.no	Date of Meeting(s)	Status
1	05 th June 2023	Adjourned at the Request of the Respondent.
2	10 th April 2024	Adjourned in the absence of the Respondent.
3	17 th May 2024	Adjourned in the absence of the Respondent.
4	18 th June 2024	Adjourned in the absence of the Respondent.
5	29 th July 2024	Adjourned in the absence of the Respondent.
6	29 th August 2024	Hearing concluded and Decision taken.

- 6.1 On the day of the first hearing on 05th June 2023, the Committee noted that the Complainant was present through video conferencing mode. The Committee further noted that the Respondent vide email dated 03rd June 2023 sought adjournment due to health issues. The Committee acceded to the request of the Respondent and adjourned the case to a future date.
- 6.2 On the day of the hearing on 10th April 2024, the Committee noted that neither the Complainant nor the Respondent was present for the hearing and notice of listing of the case has been served upon them. The Committee adjourned the case to a future date.

2 N

- 6.3 On the day of the hearing on 17th May 2024, the Committee noted that authorized representative of the Complainant was present through video conferencing mode, however, the Respondent was not present for the hearing even though notice of hearing was duly served upon him. The Committee adjourned the case to a future date. The Committee also directed the office to hand deliver the notice of meeting for the next hearing to the Respondent at his professional address available in the record of ICAI.
- 6.4 On the day of the hearing on 18th June 2024, the Committee noted that authorized representative of the Complainant was present through video conferencing mode, however, the Respondent was not present for the hearing and notice of listing of the case has been served upon him. The Committee adjourned the case to a future date.
- 6.5 On the day of the hearing on 29th July 2024, the Committee noted that the Respondent was not present for the hearing and notice of listing of the case has been served upon him. The Committee adjourned the case to a future date with a view to extend one final opportunity to the Respondent to defend the charges. The Committee directed the office to inform the Respondent to appear before it at the time of next listing and in case of failure to appear, the matter would be decided ex-parte based upon the documents and materials available on record.
- 6.6 On the day of the final hearing on 29th August 2024, the Committee noted that authorized representative of the Complainant was present through VC, but Respondent was not present and notice(s) of listing of the case has been sent to him at available professional address, but same returned back with postal remarks "Left". Further, the Committee noted that as per its instructions, office has made attempt(s) to hand deliver the notice(s) of hearing(s) to the Respondent. However, at professional address of the Respondent as per Institute's record, another professional (Company Secretary) was available and he informed that he occupied this premises since last one year and as per his knowledge no person (in the name of the Respondent) functioned from the said premises.
- 6.7 The Committee noted that this case was listed for hearing for the sixth time and same was adjourned previously due to non-appearance of the Respondent on all occasions except one dated 05.06.2023, wherein the Respondent had sought an adjournment. The Committee further noted that the Respondent was communicated through email(s) that in his absence, the case would be decided ex-parte the Respondent. However, the Respondent did not appear before the Committee. Further, the Committee noted that the Respondent had submitted his written statement dated 28.04.2023 on Prima Facie Opinion of the Director (Discipline).

6.8 The Committee noted that sub-rule (18) of Rule 18 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 states that the adjournment shall be granted by the Committee at the request of any of the parties, provided that such adjournment shall be not given more than once. However, in the present case, the Committee observed that Respondent did not appear before it, despite grant of sufficient opportunities to him. In view of this Rule, as narrated above, which provide for the grant of only one adjournment, the Committee decided to proceed with the hearing ex-parte the Respondent, on the basis of documents/ material available on record as sufficient opportunities had already been granted to him to defend the charges.

6.9 Thereafter, the Committee noted the charges against the Respondent and then perused the written submissions of the Respondent received on 18.04.2022 at Prima Facie stage and dated 28.04.2023 on the Prima Facie Opinion of Director (Discipline). The Committee asked the Complainant to make submissions. The Complainant submitted that he has no further submissions to make and that the matter be decided on merits of the case.

6.10 Based on the documents/ material and information available on record and the oral and written submissions made by the parties, 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 observed that this case was fixed for six times before it for hearing(s), however, the Respondent did not appear single time before it, despite the fact that he was specifically informed that in case of his non-appearance, the matter would be decided ex-parte. In view of this, the Committee noted that sub-rule (18) of Rule 18 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 states that the adjournment shall be granted by the Committee at the request of any of the parties, provided that such adjournment shall be not given more than once. However, in the present case, the Committee observed that Respondent did not appear, even on single occasion before it, despite grant of sufficient opportunities to him. The Committee also noted that the Respondent has also not communicated in any manner whether he wants to appear in the proceedings In the absence of any response from the Respondent and in compliance of the Rules as narrated above, which provides for the grant of only one adjournment, the Committee was of the view that there is no need of granting any more opportunities to the Respondent and so the Committee decided to proceed with the conduct of the hearing ex-parte, in the absence of the Respondent, on the basis of documents/ material available on record.

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

7.2.1 In respect of M/s. Fin Black Rock Private Limited (Formerly known as M/s. Sunhara Bird India Private Limited) –

The signatures of Mr. Charlie Peng on various documents attached with e-form DIR 12 differs. Mr. Charlie Peng has filed two DIR 12 having different PANs. The Respondent certified e-form DIR 12 in respect of Mr. Charlie Peng, a Chinese Person with forged self-attestation attachments and also failed to verify Mr. Charlie Peng's correct PAN number and did not ensure original signature of Mr. Charlie Peng on each attachment before filing DIR 12.

7.2.2 In respect of M/s Inwin Logistics Private Limited –

- i. Signature of Mr. Charlie Peng on documents attached with SPICe Form are not matching with signatures on Form DIR 12 filed for appointment in the Company namely Fin Black Rock India Pvt Limited.
- ii. The attachment (STK-4) with the Form STK-2 contains the name of Company as Digiearn Facilitation Services Private Limited instead of Inwin Logistics India Private Limited.

7.2.3 In respect of M/s. Clean Harbours Private Limited –

Mr. Peng is showing different addresses in the attachment to e-form INC 32 and in affidavits attached to the said e-Form. The Respondent has certified the said form INC 32 knowingly that he is introducing Chinese person in subject Company with forged/ false/ duplicate/ address to incorporate a shell Company for illegal and suspicious activities.

The details of charges are given in paras 2.1, 2.2 and 2.3 above.

The Committee noted the background of the case, submissions made by the Complainant and the written submission of the Respondent dated 28/04/2023 as well as documents/ material on record and gives its findings as under: -

In respect of M/s. Fin Black Rock Private Limited (Formerly known as M/s. Sunhara Bird India Private Limited) –

- 7.3 The Committee noted the charge as mentioned in para 2.1 above and submissions of the Respondent that there is no criteria that signature should match with the PAN card and surrendered PAN card was attached inadvertently with DIR-12 without any ill motive. The Committee noted that the Respondent had certified Form DIR-12 dated 16.03.2018 of the

Company. The Committee observed that while certifying the said Form DIR-12, the Respondent had declared as under: -

"I declare that I have been duly engaged for the purpose of certification of this form. It is hereby certified that I have gone through the provisions of the Companies Act, 2013 and rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original/certified records maintained by the Company/applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed. I further certify that;

(i) the 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;

(ii) all the required attachments have been completely and legibly attached to this form,

(iii) It is understood that I shall be liable for action under Section 448 of the Companies Act, 2013 for wrong certification, if any found at any stage"

7.4 On perusal of documents attached with Form DIR - 12, the Committee noted that letter dated 15th March 2018 of Mr. Charlie Peng addressed to Board of Directors to appoint him as Director was unsigned. In view of this, the Committee observed that the declaration given by the Respondent stating that *"all the required attachments have been completely and legibly attached to this form"* was factually not correct. The Committee noted that signatures of Mr. Charlie Peng are different on both pages of Form DIR - 2. Further, the Committee observed that signatures of Mr. Charlie Peng in Form DIR - 2 was different in comparison with signatures as contained in PAN card and self-attested copy of ADHAR card of Mr. Charlie Peng which were part of Form DIR - 12 filed in case of M/s. OTA New Delhi Private Limited. In view of this, the Committee was of the view that it was the duty of Respondent to check, and upload correct, complete and valid documents with Government authorities, which the Respondent had failed to do so.

7.5 Further, the Committee noted that PAN mentioned in DIR-2 is DIVPP7419G which is claimed by the Respondent to have been surrendered on 05th March 2018. The Committee noted the submissions of the Respondent filed at the Prima Facie Stage that said old PAN was mistakenly attached by his office staff with regular Forms filed with RoC. The Committee noted that the Respondent had brought on record acknowledgement receipt of Income Tax

2/11

Department for surrendering this PAN by Mr. Charlie Peng dated 05/03/2018. In view of this, the Committee was of the view that despite knowing that PAN card of Mr. Charlie Peng was already surrendered on 05th March 2018, he had certified the DIR-12 Form on 16th March 2018 containing Form DIR-2 which mentioned PAN which was already surrendered by the Director. The Committee observed that the letter dated 15/03/2018 was the basic document upon which the Company has accepted the request/consent of Mr. Charlie Peng to become the Director of the Company, but the said letter was not signed by Mr. Charlie Peng. The Committee viewed that the Respondent has given declaration in Form DIR – 12 that he has verified the particulars including attachments and found them to be true, correct and complete, which was factually not correct. The Committee thus viewed that the Respondent has adopted a very casual approach while certifying the Form DIR – 12 as he had submitted the records/ papers/ documents containing false/ misleading information with Government authorities. Hence, the Committee was of the opinion that the Respondent is **Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

In respect of M/s Inwin Logistics Private Limited –

7.6 The Committee noted the charge as mentioned in para 2.2 (i) above and submissions of the Respondent. The Committee noted that Spice Form of the Company as well as strike off Form (STK-2) with regard to removing its name from Register of Companies have been certified by the Respondent.

7.7 The Committee noted that the Respondent while certifying the SPICe Form, declared as under:

"I (the Respondent) member of ICAI having office at Laxmi Nagar Delhi – 110092 who is engaged in the formation of the company declare that I have been duly engaged for the purpose of certification of this form. It is hereby also certified that I have gone through the provisions of the Companies Act, 2013 and rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original/certified records maintained by the applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed. I further certify that;
(i) the draft memorandum and articles of association have been drawn up in conformity with the provisions of sections 4 and 5 and rules made thereunder,
and

(ii) all the requirements of Companies Act, 2013 and the rules made thereunder relating to registration of the company under section 7 of the Act and matters precedent or incidental thereto have been complied with. The said records have been properly prepared, signed by the required officers of the Company and maintained as per the relevant provisions of the Companies Act, 2013 and were found to be in order,

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

(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."

7.8 On perusal of attachments attached with SPICe Form, the Committee noted that the declaration given by the Respondent stating that "*I have opened all the attachments to this form and have verified these to be as per requirements, complete and legible*". However, the said declaration was not factually correct. The Committee noted that PAN number mentioned in DIR - 2 is DIVPP7419G which is claimed by the Respondent to have been surrendered on 05th March 2018. The Committee noted the submissions of the Respondent filed at the Prima Facie Stage that said PAN was mistakenly attached by his office staff along with regular Forms filed with RoC. The Committee noted that the Respondent had brought on record acknowledgement receipt of Income Tax Department for surrendering the PAN card by Mr. Charlie Peng dated 05/03/2018. In view of the same, the Committee was of the view that despite knowing that PAN was already surrendered on 05th March 2018, the Respondent certified SPICe Form containing Form DIR-2 which mentioned PAN number already surrendered by Mr. Charlie Peng (Director of the Company). Moreover, in view of submissions of the Respondent, the Committee observed that said PAN was filed along with regular Forms filed with RoC as admitted by the Respondent. In view of the said admission, the Committee opined that it is an admitted fact that there were misleading/ incorrect information in SPICe Form certified by the Respondent. The Committee, thus viewed that the Respondent has adopted a very casual approach while certifying the Form as he has submitted the records/ papers/ documents containing false/ misleading information with Government authorities.

7.9 The Committee further observed that it can be noticed that signatures of Mr. Charlie Peng as contained in attachments filed with SPICe Form i.e. affidavit(s) in Form(s) INC 9, INC, 10 and DIR – 2 of subject Company were different in comparison with signatures of Mr. Charlie Peng as contained in Form DIR – 2 filed in case of M/s. Fin Black Rock Private Limited. Further, signatures contained in PAN card and self-attested copy of ADHAR card of Mr. Charlie Peng are also not tallying with signatures contained in attachments filed with SPICe Form. In view of this, the Committee was of the opinion that it was the duty of Respondent to check, and upload correct, complete and valid documents with Government authorities, which the Respondent failed to do so. Hence, the Committee was of the opinion that the Respondent is **Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

7.10 In relation to charge mentioned in para 2.2 (ii) that in Form STK-2, the name of Company was mentioned as Digiearn Facilitation Services Private Limited instead of Inwin Logistics India Private Limited, the Committee noted the submissions of the Respondent wherein he admitted that it was just a typographical error/ mistake. In view of this, the Committee noted that in the attached documents (Affidavit) to Form STK-2 (Removing Name of the Company from the Register), the name of the subject Company is wrongly mentioned as Digiearn Facilitation Services Private Limited. The Committee observed that essential elements of legal documents require mandatory adherence and mistakes regarding the same cannot be ignored. Further, the Committee opined that the Company name entered in an Affidavit (which is the main supporting attachment) and actual name of the Company are so different that it cannot be a mere typographical error, but it clearly very casual approach and gross negligence of the Respondent. The Committee viewed that such mistakes often allow the Companies to play with the legal framework and go beyond their jurisdiction. Considering this neglect and failure to exercise due diligence by the Respondent, the Committee viewed that he has adopted a casual approach towards his professional duties. Thus, the Committee was of the view that the Respondent is **Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949, in respect of this charge alleged in relation to M/s Inwin Logistics Private Limited.

In respect of M/s Clean Harbours Private Limited –

7.11 The Committee noted the charge as mentioned in para 2.3 above and submissions of the Respondent wherein the Respondent admitted that the Director of the Company (Mr. Charlie Peng) had two different addresses out of which one address was an old address. The Committee noted that the Respondent had certified Form INC-32 of the subject

Company. On perusal of the Form INC – 32, the Committee noted that the Respondent while certifying SPICe INC - 32 Form, declared as under: -

"I (the Respondent) member of ICAI having office at Laxmi Nagar Delhi – 110092 who is engaged in the formation of the company declare that I have been duly engaged for the purpose of certification of this form. It is hereby also certified that I have gone through the provisions of the Companies Act, 2013 and rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachment(s)) from the original/certified records maintained by the applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed. I further certify that;

(i) the draft memorandum and articles of association have been drawn up in conformity with the provisions of sections 4 and 5 and rules made thereunder, and
(ii) all the requirements of Companies Act, 2013 and the rules made thereunder relating to registration of the company under section 7 of the Act and matters precedent or incidental thereto have been complied with. The said records have been properly prepared, signed by the required officers of the Company and maintained as per the relevant provisions of the Companies Act, 2013 and were found to be in order,

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

(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."

7.12 The Committee noted that the Respondent had admitted his mistake and submitted that Director of the Company was having two addresses. Thereafter, on perusal of attachments with Form SPICe INC – 32, the Committee noted that in affidavit dated 21.11.2019, the address of the Director of the Company (Mr. Charlie Peng) has been mentioned as F-194, The Park Place, 19th Floor, DLF Phase -5, Golf Course Road, Chakarpur (74) Gurgaon, Haryana – 122002 IN, whereas in Form INC -10 dated 21.11.2019 attached with said Form,

R
M

the address of the Director (Mr. Charlie Peng) was mentioned as Flat No. B-206, NTPC Apartment, Plot No. 10, Sector – 19, Dwarka, South West Delhi – 110075 IN.

7.13 In view of the attachments with Form SPICe INC -32, the Committee observed that Director of the Company had used different addresses and said Form with attachments had been certified by the Respondent stating that *"I have verified the above particulars (including attachment(s)) from the original/certified records maintained by the applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed. I have opened all the attachments to this form and have verified these to be as per requirements, complete and legible."* In view of the same, the Committee was of the opinion that the Respondent has given wrong certification in said Form. The Committee was of the view that a Chartered Accountant is required to verify the authenticity and completeness of the documents while certifying e-forms, however, the Respondent did not exercise due diligence in conduct of his professional duties as there were different addresses of the Director in the attachments filed with SPICe INC – 32. The Committee further observed that essential elements of legal documents require mandatory adherence and mistakes regarding the same cannot be ignored. Considering this neglect and failure to exercise due diligence by the Respondent, the Committee was of the view that the Respondent has adopted a casual approach towards his professional duties. Thus, the Committee was of the view that the Respondent is **Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

7.14 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. As such, the role of the Respondent was limited to certification of various e- forms of the above Companies which has been examined by the Committee.

8. Conclusion:

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

Charges (as per PFO)	Findings	Decision of the Committee
Para 2.1 as above.	Para 7.3 to 7.5 as above.	GUILTY - as per Item (7) of Part I of Second Schedule.
Para 2.2 (i) as above.	Para 7.6 to 7.9 as above.	GUILTY - as per Item (7) of Part I of Second Schedule.
Para 2.2 (ii) as above.	Para 7.10 as above.	GUILTY - as per Item (7) of Part I of Second Schedule.
Para 2.3 as above.	Para 7.11 to 7.13 as above.	GUILTY - as per Item (7) of Part I of Second Schedule.

9. In view of the above observations, considering the written submissions of the Complainant and the Respondent and documents/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/-
(MS. DAKSHITA DAS, IRAS {RETD.})
GOVERNMENT NOMINEE

Sd/-
(CA. MANGESH P KINARE)
MEMBER

DATE: 30/12/2024

PLACE: New Delhi

सही प्रतिलिपि होने को लिए प्रमाणित
Certified to be true copy

मोहन गुप्ता / Mohan Gupta
मुख्य कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निर्देशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आइसीएसए, पवन, विद्याना नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vaidya Nagar, Shahdara, Delhi-110032