



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

PR/G/173/2022-DD/96/2022-DC/1628/2022

[DISCIPLINARY COMMITTEE [BENCH-II (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/173/2022-DD/96/2022-DC/1628/2022]

In the matter of:

**Dr. Avais Patwegar,
Deputy Registrar of Companies (Karnataka)
Ministry of Corporate Affairs
Kendriya Sadan,
2nd Floor, E Wing Koramangala
Bengaluru – 560034.**

.....Complainant

Versus

**CA. Ravi Hareshkumar Kariya (M. No. 130668)
B-502, Devpriya-IV
Motera Stadium Road Motera
Ahmedabad – 380005.**

.....Respondent

Members Present: -

**CA. Ranjeet Kumar Agarwal, Presiding Officer (in Person)
Mrs. Rani S Nair, I.R.S. (Retd.), Government Nominee (in Person)
CA. Sanjay Kumar Agarwal, Member (in Person)
CA. Cotha S Srinivas, Member (through VC)**

Date of Hearing : 3rd February 2025

Date of Order : 8th February 2025

1. That vide Findings 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. Ravi Hareshkumar Kariya**



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(M. No. 130668), Ahmedabad (hereinafter referred to as the '**Respondent**') is **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

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 opportunity of being heard in person / through video conferencing and to make representation before the Committee on 03rd February 2025.
3. The Respondent was present before the Committee on 03rd February 2025 through video conferencing and made his verbal representation on the Findings of the Disciplinary Committee, inter-alia, stating that the DINs of the Directors of the Company were not obtained by him as they were already subsisting. No document was in Chinese language and the Complainant Department has not produced anything regarding the same. He relied on the notarized copies of the documents, majorly being the Singapore notary/apostille and the same were verified from their website. He further added that he had not seen the original verified documents but verified them from the source website itself, which is the counterpart of MCA out there in Singapore which pertains to the parent company documents. Lastly, about the consent of Director, DIR 2, the consent was already there and the same was mentioned by Mr. Saurav, the Indian Director when he was probably summoned by ROC and the same is there in his Statement, which is already on record. Thus, he relied on the certified copies and had done his due diligence with respect to the documentation.
- 3.1 Further, with respect to physical verification, he stated that the registered office was not personally visited by him, of course, but the ROC has not raised any concern that the first office verification was unsuccessful. There were probably a couple of instances where the offices were changed later on, and ROC officials may have visited there and probably could not find anybody there. Even if the Respondent had visited the office and if somebody was not to be found there, then the Respondent should not be held guilty of it. He further added that it was a well-known shared space in Bangalore. As per the copy of the utility bill, the office was existent. The NOC was signed by the main owners. The lease agreement was not required to be submitted to ROC at any point of time. Still, the same was obtained as a matter of extra caution.
4. The Committee also noted that the Respondent in his written representation dated 28th January 2025 on the Findings of the Committee, inter-alia, stated as under: -
 - (a) With regard to Chartered Accountants who did not personally visited/verified the premises of a Registered Office of a Company, the Respondent referred to the decisions issued by Disciplinary Committee in PR/G/154/2022/DD/136/2022/DC/1612/2022 dated 03.10.2023 in the matter of CA.

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Sanjeevan (ROC, Karnataka) vs. CA. Parameshwari D., and PR/G/2022/DD/DC/1713/2023 dated 28.11.2024 in the matter of ROC, Mumbai vs. CA. Suraj Mishra. Given that in the past, CAs who have (like the Respondent herein) not personally visited the office premises of the Company in question but secured verification of the existence thereof through other means, have been found not guilty of Professional Misconduct, it is the Respondent's case that on this ground, the Respondent too should be found not guilty.

- (b) The Committee has only considered the statement of the Respondent recorded on 03.03.2022 by the Complainant Department in arriving at its Findings in relation to this aspect, without fully considering the Respondent's position that the physical existence of the Office Premises was verified through a proper check of relevant documentation, none of which has till date been disputed or found to be fabricated or untrue.
 - (c) With regard to the charge that the Respondent gave an "incorrect declaration while certifying Form-INC 32", the Respondent stated that the declaration given (and required to be given) by the Respondent was that he verified the "original/certified copies maintained by the applicant which is subject matter of this Form and found them to be true, correct, and complete..". The Respondent re-emphasized that as per law, Notary Public is given authority to certify true copies of original documents. All documents/attachments appended to the Form INC-32 in question were notarized by either a Notary Public in India or abroad. Given this, it is permissible for a CA certifying Form INC-32 to rely upon such certified copies. If this was not the case the declaration would not have included the phrase "certified copies".
 - (d) There is no material on record to show that any of the documents in question were forged/fabricated or contained material irregularities or inaccuracies and the document verification exercise undertaken by the Respondent was in any way inadequate.
5. The Committee considered the reasoning as contained in the Findings holding the Respondent Guilty of Professional Misconduct vis-à-vis written and verbal representation of the Respondent. As regard the submission of the Respondent regarding comparing the instant case with an earlier decided case, the Committee is of the view that comparing two distinct disciplinary cases as 'eye to eye, apple to apple', is not warranted as each case is decided on merits on the basis of documents and submissions on record. After due consideration of all the facts, submissions and documents on record, the Committee arrived at its Findings holding the Respondent guilty in respect of the charges alleged against him in Form '1'.
 6. Thus, keeping in view the facts and circumstances of the case, material on record including verbal and written representation of the Respondent on the Findings, the Committee held that that the Respondent was expected to verify the particulars of INC Form 32 (including



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attachments thereto) from the original/certified records maintained by the Company. The Respondent verified the particulars on the basis of scanned copies received through email. The Committee further noted that during the hearing held on 14th June 2024, the Respondent clearly admitted that he never visited the premises of the proposed registered office of the Company.

- 6.1 The Committee noted that while certifying the INC Form 32, the certifying professional is required to give declaration whether he has personally visited the premises of the proposed registered office given in the Form at the address mentioned and whether he has verified the 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. However, in the extant case, both the requirements have not been met by the Respondent. Thus, the Committee was of the view that the Respondent should have been more diligent and ensured that the declaration made by him while certifying Form INC-32 was correct.
- 6.2 Hence, professional misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 23rd January 2025 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 ends of justice will be met if punishment is given to the Respondent in commensurate with his professional misconduct.
8. Thus, the Committee ordered that CA. Ravi Hareshkumar Kariya (M. No. 130668), Ahmedabad be Reprimanded under Section 21B(3)(a) of the Chartered Accountants Act 1949.

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

Sd/-
(MRS. RANI S NAIR, I.R.S. (RETD.))
GOVERNMENT NOMINEE

Sd/-
(CA. SANJAY KUMAR AGARWAL)
MEMBER

Sd/-
(CA. COTHA S SRINIVAS)
MEMBER

इही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

गीता अनिरुध कुमार / GEETHA ANIRUDHA KUMAR
कार्यकारी अधिकारी / Executive Officer
अनुशासन-आत्मक निदेशालय / Disciplinary Directorate
भारतीय सनदी लेखाकार संस्थान
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 – II (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/173/2022-DD/96/2022-DC/1628/2022

In the matter of:

**Dr. Avais Patwegar,
Deputy Registrar of Companies (Karnataka)
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Versus

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B-502, Devpriya-IV
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.....Respondent

MEMBERS PRESENT:

CA. Ranjeet Kumar Agarwal, Presiding Officer (In Person)
Mrs. Rani S Nair, I.R.S. (Retd.), Government Nominee (Through VC)
Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (In Person)
CA. Sanjay Kumar Agarwal, Member (In Person)

DATE OF FINAL HEARING : 14th June 2024

**DATE(s) OF SUBSEQUENT MEETING
IN WHICH CASE CONSIDERED : 29th August 2024 and 18th September 2024**

DATE OF DECISION TAKEN : 03rd January 2025

PARTIES PRESENT:

Authorized representative of the Complainant Department: Smt. Hemlatha N. AROC, MCA, Bengaluru (Through VC)

Respondent: CA. Ravi Hareshkumar Kariya (M.No.130668), (Through VC)

Counsel for the Respondent: Mr. Rohan Kothari, Advocate (Through VC)

1. BACKGROUND OF THE CASE:

- 1.1 On acquaintance with the information that certain Chinese Nationals/Individuals/Entities with the help and support of professionals were involved in the formation of Companies wherein

dummy persons were engaged as Directors/Subscribers to the Memorandum of Association (MOA) and the said entities were involved in illegal activities, ROC Karnataka (hereinafter referred to as 'Complainant Department'), under the directions of Ministry of Corporate Affairs(MCA), conducted enquiry under Section 206(4) of Companies Act, 2013 into the affairs of various companies/Individuals and the concerned professionals which included M/s. DATIMES Private Limited (hereinafter referred to as the 'Company') of the extant case. The Complainant Department provided the following details of the Company and its directors: -

Name of the Company, CIN & Registered Office Address as notified	Subscribers to MOA/Amount of shares subscribed	Name of the Directors	Date of Appointment/ resignation	Available Bank details of Company/its Directors
DATIMES PRIVATE LIMITED U67190KA2020FTC 131799 San Diego, No. 357, 1 st Block, Koramanagala, Bangalore, Karnataka-560034 Date of Incorporation- 22.01.2020 Bank Details: Incomplete details	WEEK8 HOLDINGS (Singapore) PTE. LTD. Body Corporate (Rs.4,999,990/-)	MONJOY BRATA ROY DIN: 06513005	17.01.2021	Not Available
	YUNSEN CHENG DIN: 08538839 (Rs.10/-)	YUNSEN CHENG DIN: 08538839	22.01.2020 (Date of Cessation- 10.10.2020)	Not Available
	JIANQIU ZHUANG DIN: 8538840	JIANQIU ZHUANG DIN: 8538840	22.01.2020 (Date of Cessation- 10.10.2020)	Not Available
	SAURAV KUMAR DIN: 8607132	SAURAV KUMAR DIN: 8607132	22.01.2020 (Date of Cessation- 15.12.2020)	SAURAV KUMAR HDFC Bank, Koramangala Branch, Account No. 5010020653178 5, IFSC No. HDFC0001758
	ZHI LI (Australian) settled in China DIN: 8910554	ZHI LI (Australian) settled in China DIN: 8910554	10.10.2020	Not Available

2. CHARGES IN BRIEF:-

- 2.1 In the aforesaid background, it was stated that the Respondent had assisted in incorporation of M/s DATIMES Private Limited and had certified the relevant E-Forms to MCA i.e. e-Form

INC-32 (SPICe) related to incorporation of Company. The following was alleged against the Respondent:

- i. The Company had changed its office address within 8 months from its date of incorporation.
- ii. The Company consists of one of its subscribers as a Body corporate namely WEEK8 HOLDINGS (Singapore) PTE. LTD, which is a Singapore based Company with Mr. Jianqiu Zhauang (Passport No.000EB9157 155) as its authorised person who is a Chinese National. M/s WEEK8 HOLDINGS (Singapore) PTE. LTD has another branch namely M/s WEEK8 HOLDINGS (HK) LTD, situated at Hong Kong, China.
- iii. Through information available on internet, it was found that the directors of the Company i.e., Mr. Monjoy Brata Roy and Mr. Zhi Li are also the directors of companies involved in Loan Lending/Insurance services/Financial Intermediation etc., i.e. Habitat Housing Finance Ltd, Habitat Consultancy Services Ltd, Ant finance Private Limited.
- iv. The Company was involved in Micro Instant Loan App Scam.
- v. Further, the following noticeable Chinese linkages with the Company hadn't been observed by the Respondent:-
 - a. One of the Email ID of the Company i.e. Jensen.cheng@truststock.in consists of 'Trust Stock' which is another Company namely M/s TRUSTSTOCK PVT. LTD., consisting of Mr. Yunsen Cheng and Mr. Jianqiu Zhuang as its subscribers who were also the directors of the Company. Further the professional of M/s TRUSTSTOCK PVT. LTD. namely Mr. Neeraj Bhagath has certified its documents which are in Chinese language without its translation.
 - b. Another E-mail ID of the Company i.e. zhuangjianqiu@tiange.com, consists of 'tiange.com' which had a Chinese based URL.
 - c. The Company consists of Chinese directors and subscribers.

In view of above facts, it had been alleged that the Respondent failed to discharge his duties and wilfully connived with the Directors/Company/Shareholders/Chinese individuals in certifying E-Forms knowingly with false information /documents/declaration and omitting material facts or information in the Company.

3. THE RELEVANT ISSUES DISCUSSED IN THE PRIMA FACIE OPINION DATED 05th AUGUST, 2022 FORMULATED BY THE DIRECTOR (DISCIPLINE) IN THE MATTER IN BRIEF, ARE GIVEN BELOW:

- 3.1. The Committee noted that the Director (Discipline), in his Prima-facie opinion dated 5th August 2022, opined as under:

S.NO.	Allegation(s)	Prima Facie Opinion of Director (Discipline)	Relevant Item
a)	The Respondent failed to discharge his duties and wilfully connived with the Directors/Company/Shareholders/Chinese individuals in certifying E- Forms knowingly with false information /documents/declaration and omitting material facts or information in the Company.	Guilty	Item (7) of Part I of the Second Schedule

b)	The Respondent was aware of the malafide intention of the directors of the Company/he was involved in loan application scam/he gained any undue benefit from the Company.	Not Guilty	Item (2) of Part-IV of First Schedule
c)	Certification of e-Form 'INC-22" related to change in office address within 8 months from its date of incorporation.	Not Guilty	Item (7) of Part I of Second Schedule

3.2 With respect to allegation specified at S.no. (a) above, the Director(Discipline) observed as under:

3.2.1 The Respondent certified e-Form INC-32 (SPICE) related to incorporation of Company only and no other Forms appears to be certified by the Respondent. In respect of above certification, on perusal of Statement on Oath of the Respondent taken on 03rd March,2022 by the Complainant Department, it was observed as follows:

"Q-10 Have you personally seen or spoken to any of the directors/subscribers of these companies? Have you verified the original documents of the directors and subscribers? How did you certify the details furnished in the SPICE e-form and attachments found to be true and correct and complete, without verifying the original documents of the directors and subscribers including the Chinese documents/passports, KYC documents, signature verifications etc?"

"Reply of Respondent:- I have spoken to Saurav Kumar Personally. I could not verify the documents with original documents as they sent it in mail. I can't ask them all because they might be uncomfortable."

"Q-11 Have you seen the original declaration/DIR-2 of the Directors and Subscribers of all above companies?"

"Reply of Respondent:- I just attached it as they sent us scanned copies."

Q-12 How did you certify the details furnished in the SPICE form and the attachments found to be true and correct and complete, without verifying the original documents? As the directors of these companies have denied that they have DIN/DSC, or they are not aware of being directors of these companies. Please offer your comments.

"Reply of Respondent:- I could not verify original documents as they were sent in mail. But I have spoken to Indian director who had consent to be director."

Q-14 Have you visited the premises of the proposed registered office as certified by you in the incorporation documents in all the above companies? Whether the address is available and proper documents

like rent/lease agreements in original were placed before you to certify the content in SPICE? Do you have any proof of visiting the premises? If So, furnish the same.

"Reply of Respondent:- **Scanned copies sent to us**"

Q-15 In the MOA/AOA, you have certified that the subscribers have signed before you. It was brought to our notice that the directors/subscribers of the above companies were not aware of incorporation of such companies and their directorship in above companies. Offer your comments.

"Reply of Respondent:- **Scanned copies sent to us**"

Q-16 Please state how you have complied with Sections 7(1)(b), 7(5) & (6) of the Companies Act, 2013 and Rule 13(5) (c) before getting incorporated the companies mentioned above?

"Reply of Respondent I am not sure.

- 3.2.2 From the above, it was noted that the Respondent while certifying e-Form INC-32 (SPICE) for incorporation of the Company has not checked original documents as well as he has just relied on third party while incorporating the Company. The Respondent himself accepted his mistakes before the Complainant Department.
- 3.2.3 It was seen that the Respondent declared that he had verified the original documents before certifying the aforesaid Form but it appears from his Statement given before the Complainant Department that he did not verify the original documents before certifying the Form – INC-32. The Respondent also did not mention in his written statement that he had verified the original of the documents. In view of above, it was stated that the Respondent failed to verify the original documents as required for certification of Form for incorporation and hence, he was grossly negligent while certifying e-Form – INC-32.
- 3.2.4 Thus, the Respondent was held prima facie guilty of professional misconduct for the sole allegation that he had certified e-Form INC-32 of the Company submitted on MCA portal without proper verification of the facts and information mentioned therein.
- 3.3 Accordingly, the Director (Discipline) in his Prima Facie Opinion dated 05th August 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:
- 3.3.1 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:

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

- 3.4 The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee in its meeting held on 19th September 2022. The Committee on



consideration of the same, concurred with the reasons given against the charges and thus, agreed with the Prima Facie opinion of the Director (Discipline) that the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part - I of the Second Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

4. DATE(S) OF WRITTEN SUBMISSIONS/PLEADINGS BY PARTIES:

- 4.1 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	12 th January 2022
2.	Date of Written Statement filed by the Respondent	08 th April 2022
3.	Date of Rejoinder filed by the Complainant	20 th April 2022
4.	Date of Prima facie Opinion formed by Director (Discipline)	05 th August 2022
5.	Written Submissions filed by the Respondent after Prima Facie Opinion	05 th December 2022, 8 th June 2024, 5 th December 2024 and 11 th December 2024
6.	Written Submissions filed by the Complainant Department after Prima Facie Opinion	26 th June 2024

5. WRITTEN SUBMISSIONS FILED BY THE RESPONDENT:

- 5.1 The Committee noted that the Respondent in his written submissions dated 05th December 2022, inter-alia, made the following submissions: -
- 5.1.1 There is no requirement or declaration in e-Form INC-32 that every document's original must necessarily be physically verified by the professional certifying the Form.
- 5.1.2 The documents verified by him were true copies of their originals and therefore his verification copies were akin to verification of the originals and is nothing on record as submitted by the Complainant or as summoned by the Director (Discipline) which would suggest that documents verified by him were forged, fabricated or in any way diverged from their original.
- 5.1.3 The documents verified by him were previously verified by Public Officials and Government authorities, lending an undeniable authenticity to the said documents.
- 5.1.4 Legal recognition accorded electronic records of the documents is as substantive as that given to the physical counterparts.
- 5.1.5 Verifying electronic copies of documents in lieu of their originals does not amount to negligence.

5.2 The Respondent in his written submissions dated 08th June 2024, inter-alia, stated as under:-

5.2.1 The below stated table discloses the form of due diligence exercised by the Respondent prior to his verification:

S.No.	Particulars of Documents	Version submitted for verification	Form of Due Diligence exercised
1.	Declaration by First Subscriber and Datimes Notarized and Apostilled Proof of Address.	Copy certified by and executed before a Notary Public. Documents pertaining to Week8 Holdings (Singapore) PTE. LTD. were provided as certified copies notarized by a Notary Public.	A document certified by a Notary Public is presumed to be genuine. This was further verified by a search on Singapore Academy of Law's Official Website for verification/search of Notarial and Apostille Certificates: https://legalisation.sal.sg/AuthenticationCert/Search Additionally, verification of these documents was conducted through Singapore's Accounting and Corporate Regulatory Authority's Official Website: https://www.acra.gov.sg/
2.	Utility Bill	Photocopy provided.	Name of Consumer cross checked with name of Lessor in Lease Agreement dated 12.04.2019. Genuineness of Lease Agreement verified by securing details of stamping thereof from Stock Holding Corporation of India Limited's Website: https://www.shcilestamp.com//
3.	PAN Declaration	Copy certified by and executed before a Notary Public.	A document certified by a Notary Public is presumed to be genuine.
4.	MOA Datimes	Copy certified by a Notary Public.	A document certified by a Notary Public is presumed to be genuine.
5.	AOA Datimes	Copy certified by a Notary Public.	A document certified by a Notary Public is presumed to be genuine.

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6.	Business Visa Details	E-Visa/ETA (Electronic Travel Authorization). This is a computer generated electronic document, and no physical original exists. Passport copies notarized by Notary Public.	E-Visa/ETA details verified from https://indianvisaonline.gov.in/visa/Status Enquiry Passport copies were certified by Notary Public and hence presumed to be genuine.
7.	DIR-2	Copy of DIR-2 pertaining to Chinese Directors Certified by and executed before a Notary Public. Copy of DIR 2 pertaining to Indian Director/Saurav Kumar.	A document certified by a Notary Public is presumed to be genuine. Verified directly through the concerned Indian Director/Saurav Kumar who confirmed execution of DIR 2. This is further corroborated by Statement given by Mr. Saurav Kumar to ROC dated 09.03.2022.
8.	Clarification Letter	This letter was issued in response to the queries raised by MCA after the first attempt at submission of the Spice FORM INC-32 on 04.01.2020. The clarification letter was generated only as an electronic document, and no physical original existed.	Given that there was no physical original of the document, no further verification was nor could be done.

5.2.2 In so far as details of checks exercised by the Respondent to satisfy himself as to authenticity of underlying documents which are in the "Chinese Language" is concerned, the Respondent informed that none of the documents verified by him were in any foreign language.

5.3 Since a specific query was raised by a member of this Hon'ble Committee during the hearing dated 28.05.2024 as to the method and manner of certification of true copies of original documents by Notaries, the Respondent drew attention to the following provisions of law:

(a) Section 79 of the Indian Evidence Act, 1872, states as under:

"The Court shall presume [to be genuine] every document purporting to be a certificate, certified copy, or other document, which is by law declared to be admissible as evidence of any particular fact and which purports to be duly certified by any officer [of the Central Government or of a State Government, or by any officer [in the State of Jammu and Kashmir] who is duly authorised thereto by the Central Government]"

(b) Section 8 of the Notaries Act, 1952, states as under:

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*"A notary may do all or any of the following acts by virtue of his office, namely:- (a) verify, authenticate, **certify**, or attest the execution of any instrument;"*

*(c) Rule 10 of the Notaries Rule, 1956, which specifies the fee payable for various notarial acts, and includes at sub-rule (e) a fee payable towards "verifying, authenticating, **certifying**, or attesting the execution of any instrument", and at sub-rule (l) a fee payable towards "**certifying copies of documents as true copies of their originals**".*

- 5.3.1 Given the above, it was beyond dispute that a Notary has the authority to certify documents as true copies of their originals. The Notary concerned may certify a document as a true copy of its original by comparing the original with the copy placed before him/her for certification.
- 5.3.2 Where a professional relies on such certification by a Notary Public, no further diligence is required, either at law or otherwise.
- 5.3.3 Subsequent to the conclusion of hearing on 14th June 2024, an extract of the Inquiry Report dated 8th April 2022 was received from the Complainant Department which was shared with the Respondent vide email dated 28th November 2024. The Respondent, in response thereto, in his written submissions dated 05th December 2024, inter-alia, made the following submissions:
- a) The copy of the letter dated 26.06.2024 as supplied to him is incomplete. Therefore, the Complainant is directed to furnish forthwith a full and proper copy of the letter dated 26.06.2024 to the Respondent such that a proper response can be issued on his behalf.
 - b) Notwithstanding the above, from a perusal of the single page of the above captioned letter dated 26.06.2024 which contains an extract from an Inquiry Report dated 08.04.2022 (also a document which has not been supplied to the Respondent), it is observed that the same speaks of the fraudulent obtainment of DINs for Chinese Nationals.
 - c) The Respondent has never been involved, engaged, or associated with the obtainment of DINs for Chinese Nationals,
 - d) The Complainant has till date not placed on record any document or material to show that the Respondent was in any way connected to the obtainment of DINs for the Chinese Nationals in question.
 - e) As far the Chinese Nationals mentioned in the captioned letter are concerned, their DINs were valid and subsisting prior to my client's engagement. These DINs were obtained with the help of another professional CA. Neeraj Bhagat during the time when certification of SPICE Forms for a Company called TGHY Truststock Pvt. Ltd.
- 5.3.4 The Respondent in his additional written submissions dated 11th December 2024, inter-alia, stated as under:



- a) As to allegations made in second page of the Complainant's letter dated 26.6.2024, the Respondent stated that he has not been named as an accused in any FIR/Chargesheet filed by local police in Bangalore in relation to any criminal complaint preferred by the Complainant.
- b) Whether the Company in question has been incorporated for a fraudulent purpose or not is entirely irrelevant to Respondent's limited involvement in certifying its SPICe Forms.
- c) The Respondent was only engaged for the purpose of certifying SPICe Forms, which he did as per prescribed law, and to the best of his ability. There has been no negligent or mala fide conduct on his part in relation to this exercise. If the Company in question or its directors have acted in a fraudulent manner after incorporation of the Company, he cannot be held responsible for the same.

6. SUBMISSION OF THE COMPLAINANT DEPARTMENT :

- 6.1 The Complainant Department vide letter dated 26th June 2024 provided the following extract of the punitive action arising out of the Inquiry Report dated 08th April 2022:

"a) The DINs of the past and present directors Mr. Jianqiu Zhuang, Mr. YUNSEN CHENG, Mr. ZHI LI and Mr. MONJOY BRATA ROY are found to be deactivated due to non-filing of DIR-3 KYC. But DIN of one of the past directors Mr. SA URA V KUMAR (DIN - 8607132), is still found to be active. It seems that these DINs were fraudulently obtained to incorporate a Company by Chinese nationals with the assistance of Chartered Accountant. Therefore, the DINs may be deactivated under section 153 of the Companies Act, 2013 r/w Rule 11(1)(b) of Companies (Appointment and Qualification of Directors) Rules, 2014, to prevent further usage of the DIN fraudulently for incorporation new companies by the perpetrators for cheating, fraudulent purpose etc.

b) As per the information provided by the Ministry, the Company has been involved in fraudulent activities at the behest of Chinese individuals. Further, information about the actual activities of the Company could not be ascertained in the absence of any filings of statutory documents/ financial statements. This office has already lodged a complaint with Police authorities and professional institute for investigating the matter as directed by the Ministry. Overall, the Company has incorporated for fraudulent purpose with dummy directors and by using their documents, no registered office is maintained, and it can be said that it is a shell Company/paper Company incorporated for doing fraudulent business. Hence, filing of petition is warranted U/s 7(7) (d) of the Companies Act, 2013 for winding up of the Company and handover the Company to the Official Liquidator for Liquidating the companies.

c) Further, with the unresponsive nature of the Company, past and present directors and professionals who incorporated the Company, it is clear that the Company was incorporated in a fraudulent manner. From the information received from Ministry, the Company is part of

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network of instant Micro Loan lending apps. However, due to lack of any further information, the exact fraudulent activities undertaken by the Company could not be ascertained and therefore the quantum of fraud cannot be quantified. Further, the Company has not filed any financial statement though it is due as on date to know the details of Turnover. The present directors have not attended summons issued u/s 207(3)(b). Therefore, the certifying professional, who has certified the documents in Chinese language including director details without translation, assisted perpetrators to incorporate the Company with forged documents, i.e., RAVI KARIYA, is liable for action u/s 447 and r/w 448 Companies Act, 2013.”

7. BRIEF FACTS OF THE PROCEEDINGS:

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

S.No.	Particulars	Date of meeting(s)	Status
a)	1 st hearing	20 th April 2023	Part heard and adjourned at the request of Complainant Department
b)	2 nd hearing	23 rd April 2024	Adjourned due to paucity of time
c)	3 rd hearing	17 th May 2024	Adjourned at the request of Respondent
d)	4 th hearing	28 th May 2024	Part Heard and Adjourned with the direction to the Complainant Department and Respondent to provide certain information/documents
e)	5 th hearing	14 th June 2024	Hearing concluded. Decision on the conduct of the Respondent was reserved.
f)	---	29 th August 2024	The Committee directed to seek certain documents from the Complainant Department
g)	---	18 th September 2024	On account of non-submission of the requisite documents from the Complainant Department, the Committee directed to send a reminder to the Complainant Department.
h)	---	3 rd January, 2025	Decision on the conduct of the Respondent taken.

7.2 On the day of hearing held on 20th April 2023, the Committee noted that the Respondent and his Counsel Shri Rohan Kothari, Advocate, were present through Video Conferencing. The Committee noted that the Complainant vide email dated 17th April 2023 sought adjournment on the ground of his training with respect to election duty in Karnataka. The Respondent was administered on Oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges. On the same, the Respondent replied in the affirmative and pleaded Not Guilty to the charges leveled against him. The Committee, looking into the adjournment request of the Complainant and the fact that this was the first hearing, decided to adjourn the hearing to a future date. With this, the hearing in the matter was part heard and adjourned.

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- 7.3 In the hearing held on 23rd April 2024, the case was adjourned due to paucity of time.
- 7.4 In the hearing held on 17th May 2024, the Respondent vide his email dated 6th May 2024, requested for an adjournment on the ground of some personal unavoidable reason. Since the request for adjournment had been made for the first time by the Respondent, thus, keeping in view the principle of natural justice, the Committee acceded to the request for adjournment of the Respondent and directed the office to place the instant case for consideration before it at its next meeting. Accordingly, the hearing in the case was adjourned at the request of the Respondent.
- 7.5 In the hearing held on 28th May 2024, the Authorized representative of the Complainant Department and the Respondent along with his Counsel was present before the Committee through video conferencing. The Committee noted that the change in the composition of the Committee since the last hearing was duly intimated to the Authorized Representative of the Complainant Department, the Respondent and his Counsel who were present before the Committee. Thereafter, the case was taken up for hearing. On being asked by the Committee to substantiate their case, the authorized representative of the Complainant Department referred to the contents of Complaint made in Form 'I' against the Respondent. Subsequently, the Counsel for the Respondent presented the Respondent's line of defence, inter-alia, reiterating the written submissions made by him on the Prima Facie Opinion. On consideration of the submissions made by the authorized representative of the Complainant Department and the Counsel for the Respondent, the Committee posed certain questions to them which were responded by them. Thus, on consideration of the submissions and documents on record, the Committee directed the Complainant Department to provide their comments on the following: -

1. Whether the Indian Directors of the alleged Company claimed that their identities had been misused by the Respondent and they were never part of the incorporation of the alleged Company.

- 7.5.1 Further, the Committee directed the Respondent to provide their submissions on the following within next 10 days with a copy to the Complainant Department to provide their comments thereon, if any: -

1. To provide in a tabular format the details of documents certified by him together with the due diligence exercised by him prior to their certification.
2. To provide details of checks exercised by him to satisfy himself about the authenticity of the underlying documents which are in Chinese language.

With the above, the hearing in the case was part heard and adjourned.

The Committee noted that the Respondent vide email dated 8th June 2024 filed his additional written submissions with a copy to the Complainant Department. However, no response was received from the Complainant Department.

- 7.6 On the day of hearing held on 14th June 2024, the Authorized representative of the Complainant Department and the Respondent along with his Counsel was present before it through video conferencing. Thereafter, the Committee posed certain questions to the authorised representative of the Complainant Department and the Respondent which were responded by them. Subsequently, the Counsel for the Respondent while reiterating the written submissions made by the Respondent, accepted the mistake on the part of the

Respondent to the extent that he did not personally verify the premises of the proposed registered office of the Company. However, the said minor lapse cannot be treated as amounting to gross misconduct or gross negligence on the part of the Respondent.

- 7.7 Thus, on consideration of the submissions and documents on record, the Committee concluded the hearing in the case with the direction to the parties to the case to provide the following within next 10 days with a copy to the other party to the case to provide their comments thereon, if any: -

Complainant Department:

1. A brief synopsis on the inquiry conducted by them against the alleged Company clearly bringing out the alleged misconduct on the part of the Respondent.

Respondent:

1. To submit a notarized Affidavit to the effect that on enquiry in the criminal case, the Respondent has been named as a witness and not an accused in the said criminal case and no case has been made out against him.
2. Any other submission/document to defend himself on the charges alleged against him.

Accordingly, the decision on the conduct of the Respondent was kept reserved by the Committee.

With this, hearing in the case was concluded and a decision on the conduct of the Respondent was reserved.

- 7.8 Thereafter, the Committee at its meeting held on 29th August 2024, noted that the Respondent vide email dated 24th June 2024 submitted a Notarised Affidavit dated 22nd June 2024 as per the direction of the Committee. The Complainant Department vide communication dated 26th June 2024 provided an extract of the punitive action arising out of the Inquiry Report dated 8th April 2022. Thus, the Committee advised the office to send a separate communication to the concerned ROC(s) with a copy to the office of DGCoA to provide a copy of the complete Investigation/Inquiry report so that the Committee can arrive at a logical conclusion in the said case. Accordingly, an email dated 9th September 2024 followed by reminder email dated 17th September 2024 was sent to the Complainant Department. In response thereto, the Complainant Department vide email dated 30th September 2024 provided a copy of the Inquiry report in the instant case with the following stipulation:

"This inquiry report is a privileged document and is being provided to DC Bench on special request and no parts of it or its extract be shared with any other external agency or person including the Respondent."

In view of the said stipulation, the office vide email dated 26th November 2024 informed the Complainant Department that in the interest of justice, as well as for fairness in the disciplinary proceedings, the documents brought on record by any party to the case is to be shared with the other party to the case for making their counter submissions, if any, on the same and thus, requested to permit to share the extract of the Inquiry Report dated 8th April

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2022 with the Respondent for his comments thereon, if any. Thereafter, the Complainant Department vide email dated 27th November 2024 informed as under:

"if it is expedient in the interest of justice, only 'the extract' of the Inquiry Report as forwarded to you vide letter dated 26.06.2024 which is relevant to the case may be shared with the Respondent."

7.9 Accordingly, the extract of the Inquiry Report as received vide letter dated 26.06.2024 was shared with the Respondent vide email dated 28th November 2024 with the stipulation to provide his comments thereon within 5 days of the receipt of communication. In response thereto, the Respondent vide email dated 5th December, 2024 and 11th December 2024 submitted his submissions. Thereafter, at its meeting held on 03rd January 2025, the Committee, duly considered the submissions and documents, on record and decided on the conduct of the Respondent.

8. FINDINGS OF THE COMMITTEE:-

8.1 The Committee noted that the sole charge alleged against the Respondent, relates to certification of e-Form INC-32 (SPICe) related to incorporation of Company on 4th January 2020 wherein he did not exercise due diligence as the documents attached with the Form were not verified by him with its originals. Further, at the time of physical inspection of the premises of the Company on the mentioned address of the Form, the same was not found in existence by the Authorised Representative of the Complainant Department.

8.2 The Committee noted that the basic defence of the Respondent in this regard was that there is no requirement or declaration in e-form INC-32 that every document's original must necessarily be physically verified by the professional certifying the said e-Form. In this regard, the Committee noted that the Form INC 32 certified by the Respondent specifically requires the certifying professional to declare as under:

"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)....; 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 as per the relevant provisions of the Companies Act, 2013 and were found to of the Company and maintained be in order;

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

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(iv) I further declare that I have personally visited the premises of the proposed registered office given in the form at the address mentioned herein above and verified that the said proposed registered office of the Company will be functioning for the business purposes of the Company (wherever applicable in respect of the proposed registered office has been given)."

8.3 The Committee on perusal of Statement on Oath of the Respondent taken on 03rd March 2022 by the Complainant Department, observed that when the Respondent was categorically asked for visiting the premises of the proposed registered office of the Company, he himself admitted that scanned copies of the documents were sent to him. The relevant portion is reproduced as follows:

"Q-10 Have you personally seen or spoken to any of the directors/subscribers of these companies? Have you verified the original documents of the directors and subscribers? How did you certify the details furnished in the SPICE e-form and attachments found to be true and correct and complete, without verifying the original documents of the directors and subscribers including the Chinese documents/passports, KYC documents, signature verifications etc?"

"Reply of Respondent:- I have spoken to Saurav Kumar Personally. I could not verify the documents with original documents as they sent it in mail. I can't ask them all because they might be uncomfortable."

...

Q-12 How did you certify the details furnished in the SPICE form and the attachments found to be true and correct and complete, without verifying the original documents? As the directors of these companies have denied that they have DIN/DSC, or they are not aware of being directors of these companies. Please offer your comments.

"Reply of Respondent:- I could not verify original documents as they were sent in mail. But I have spoken to Indian director who had consent to be director.

...

"Q-14 Have you visited the premises of the proposed registered office as certified by you in the incorporation documents in all the above companies? Whether the address is available and proper documents like rent/lease agreements in original were placed before you to certify the content in SPICE? Do you have any proof of visiting the premises? If so, furnish the same.

"Reply of Respondent:- Scanned copies sent to us"

8.4 The Committee further noted that the Respondent during the hearing held on 14th June 2024 clearly admitted that he never visited the premises of the proposed registered office of the Company. He certified the Form INC 32 based upon the scanned copy of the documents sent to him through email.

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- 8.5 The Committee also noted that the Respondent did not deny the submissions made by him in his Statement on Oath given before the Complainant Department on 03rd March, 2022. The Committee also on perusal of the Statement on Oath of Mr. Saurav Kumar, one of the directors of the Company at the relevant time given before the Complainant Department on 09th March, 2022 noted the following Question no. 19 and the response of the said Director thereto:

"Q-19 Any professionals, Chartered Accountants, Company Secretaries, Advocates, or any other persons approached you for incorporation or starting of any companies? If so, give details. Do you know Mr./Ms., Chartered Accountant/ Company Secretary/ Advocate? Have they contacted you or did you contact them? If so, when, and where? Have you shared any documents with them, whether physical or online?"

*A-19
No"*

Thus, the Committee noted that the deposition of the Respondent in his Statement on Oath given before the Complainant Department on 03rd March, 2022 in response to Question no. 10 is contrary to the deposition of Mr. Saurav Kumar, one of the directors of the Company at the relevant time in his Statement on Oath given before the Complainant Department on 09th March, 2022 in response to Question no. 19.

- 8.6 The Committee also noted that at the time of incorporation of the alleged Company, its registered office was based in Bangalore, whereas, the Respondent who had certified Form INC 32 was based in Ahmedabad. The Committee thus held that despite the declaration given in the INC-32 Form certified by him on 4th January 2020, the Respondent failed to physically verify the premises of the Registered Office of the Company rather, he solely relied on the scanned copy of the documents sent to him for verification.
- 8.7 The Committee further noted that the Complainant Department vide email dated 30th September 2024 brought on record a copy of Inquiry Report dated 8th April 2022 with respect to the Company M/s DATIMES Private Limited. On perusal of the Inquiry report, the Committee noted the following:

"....This office has taken action as instructed and has filed complaint with the Commissioner of Police, Crime Branch, Bangalore against the Company's directors, former directors and professionals for incorporating Company with incomplete, fraudulent documents for illegal business activities on 9-2-2022. Further, complaint was also filed with the Institute of Chartered Accountants of India to take necessary disciplinary action against the professional on 10-2-2022. The police investigation and inquiry by the Institute are in progress on the basis of complaints made by this office and also this Office has issued notices u/s 206 (4) of the Companies Act, 2013 in the meantime to submit documents/information/details. The Company has not submitted documents as called for by the office. The notice has returned undelivered with remarks "Addressees Left, Return to Sender". The Company is also not working at the notified registered office as found after physical verification at office by the officials of this Office. Thereafter, summons u/s 207 (3) (b) of the Companies Act, 2013 have been issued to the past and present directors and the

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professional who helped in incorporation and further filings for recording statement on oath to know the correct position and to take further action Mr. RAVI KARIYA, PRACTICING CHARTERED ACCOUNTANT, (Membership No. 130668) and Mr. SAURAV KUMAR, Director attended the summons, and their statements were recorded.

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12. PROPOSED ACTION:

a)

b) As per the information provided by the Ministry, the Company has been involved fraudulent activities at the behest of Chinese individuals. Further information about the actual activities of the Company could not be ascertained in the absence of any filings of statutory documents/ financial statements. This office has already lodged a complaint with Police authorities and professional institute for investigating the matter as directed by the ministry. Overall, the Company has incorporated for fraudulent purpose with dummy directors and by using their documents, no registered office is maintained, and it can be said that it is a shell Company paper Company incorporated for doing fraudulent business. Hence, filing of petition is warranted u/s 7(7) (d) of the Companies Act, 2013 for winding up of the Company and handover the Company into the Official Liquidator for Liquidating the companies

c) Further, with the unresponsive nature of the Company, past and present directors and professional who incorporated the Company, it is clear that the Company was incorporated in fraudulent ilent manner. From the information received from Ministry, the Company is part of network of instant Micro Loan lending apps. However, due to lack of any further information. the exact fraudulent activities undertaken by the Company could not be ascertained and therefore the quantum of fraud cannot be quantified. Further, the Company has not filed any financial statement though it is due as on date to know the details of Turnover. The present directors have not attended summons issued w/s 207(3)(b). Therefore, **the certifying professional, who has certified the documents in Chinese language including director details without translation, assisted perpetrators to incorporate the Company with forged documents. i.e. RAVI KARIYA is liable for action u/s 447 and r/w 448 Companies Act, 2013..... (Emphasis added)**

d) The Company has not filed Annual Return and Balance Sheets /s 92 and 137 of the Companies Act, 2013 for the financial year 2020-21. Hence, action should be initiated for the said violation, including of Section 12 of the Companies Act, 2013 for not maintaining registered office."

- 8.8 The Committee with regard to the issue of verification of particulars of Form INC 32 (including attachments) thereto from the original/certified records maintained by the Company noted that the Respondent in his defence submitted that the attachments to the INC-32 Form namely Declaration by First Subscribers, Utility Bill, Pan Declaration, MOA, AOA, DIR-2 etc. were verified by him on the basis of their copies which were certified by Notary Public and received through email which he presumed to be genuine. He further

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mentioned that the directors of the Company were having valid business visa which was verified by him from web portal namely <http://www.indianvisa.gov.in> and passport copies were also certified by the Notary Public. The Committee further noted that the Respondent vide email dated 24th June 2024 brought on record a Notarised Affidavit to the effect that besides the present complaint he is not an accused/party in FIR bearing Cr. No. 06/2022 alleging commission of offence punishable under Sections 420, 477(A), 120(B), and 406 filed before the Cyber Crime Police Station, Bangalore. He further mentioned that during the investigation into the case in the month of June 2022 his statement was recorded by Special enquiry Wing, Central Crime Branch, Bangalore as witness and post that no interaction was made with him by the investigating agency and nor has his presence been required either by investigating agency nor any Court having jurisdiction over the said criminal proceedings.

- 8.9 In view of the above, it is apparent that the Respondent relied upon the scanned true copies of the documents notarised by Notary Public received through email by him.
- 8.10 In this regard, the Committee was of the view that the Respondent was expected to verify the particulars of INC Form 32 (including attachments thereto) from the original/certified records maintained by the Company. The Respondent verified the particulars on the basis of scanned copies received through email. The Committee noted that while certifying the INC Form 32, the certifying professional is required to give declaration whether he has personally visited the premises of the proposed registered office given in the Form at the address mentioned and whether he has verified the 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. However, in the extant case, both the requirements have not been met by the Respondent. Thus, the Committee was of the view that the Respondent should have been more diligent and ensured that the declaration made by him while certifying INC Form 32 was correct.
- 8.11 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 the Second Schedule to the Chartered Accountants Act, 1949 on account of not physically verifying the premises of the Registered Office of the Company and gave incorrect declaration while certifying the Form INC-32.
- 8.12 While arriving at its Findings, the Committee also observed that in the background of the instant case the Complainant Department informed that certain Chinese Nationals/Individuals/Entities with the help and support of professionals were involved in the formation of Companies wherein dummy persons were engaged as Directors/Subscribers to the Memorandum of Association (MOA) and the said entities were involved in illegal activities. 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 filing and certification of e-Form INC-32 (SPICe) which has been examined by the Committee.

9. CONCLUSION:

- 9.1 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 given above	Paras 8.1 to 8.11 as given above	GUILTY - Item (7) of Part I of the Second Schedule

10. 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 the Second Schedule to the Chartered Accountants Act, 1949.

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

Sd/-
(MRS. RANI S NAIR, I.R.S. (RETD.))
GOVERNMENT NOMINEE

Sd/-
(SHRI ARUN KUMAR, I.A.S. (RETD.))
GOVERNMENT NOMINEE

Sd/-
(CA. SANJAY KUMAR AGARWAL)
MEMBER

DATE: 23rd January, 2025
PLACE: New Delhi

प्रमाणित सत्य प्रतिलिपि / Certified true copy


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अनुशासनात्मक विभाग / Disciplinary Directorate
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