



भारतीय सनदी लेखाकार संस्थान  
(संसदीय अधिनियम द्वारा स्थापित)  
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA  
(Set up by an Act of Parliament)

PR/510/2022/DD/450/2022-DC/1910/2024

[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/510/2022/DD/450/2022-DC/1910/2024]

In the matter of:

**Shri Kutbuddin H. Vohra**  
C/o Raj Cycle Store,  
Opp. Mega Mall,  
Zala Road,  
DHRANGADHRA (GUJARAT) – 363 310.

...Complainant

Versus

**CA. Ankit Ashokkumar Chokshi (M. No. 110303)**  
301-302, Gurukrupa Avenue,  
Above Central Bank of India Bhudarpura Branch,  
Near Manekbaug Circle,  
AHMEDABAD (GUJARAT) – 380 015.

....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 : 3<sup>rd</sup> February 2025**

**Date of Order : 8<sup>th</sup> February 2025**

1. That vide Findings under Rule 18(8) 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. Ankit Ashokkumar Chokshi (M. No. 110303), Ahmedabad** (hereinafter referred to as the 'Respondent') is **GUILTY** of Professional Misconduct falling within the meaning of

*[Handwritten signature]*



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- Item (7) and (8) 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 03<sup>rd</sup> February, 2025.
  3. The Respondent was present before the Committee on 03<sup>rd</sup> February 2025 through video conferencing and made his verbal representation on the Findings of the Disciplinary Committee inter-alia, stating that the amount of Rs 23.23 lakhs was paid on 3<sup>rd</sup> January 2012 to Shree Kalki Logistics Private Limited for acquiring a property which was a godown at Shree Rajlaxmi Logistics Park, Village Dhamangaon, Tal. Bhiwandi, District, Thane. He was under the belief that if it is for earning income then it should not be reported. He has already furnished the receipt of the company from where godowns have been purchased. But now he has got the knowledge that it is not for the furtherance of the object but only for earning the income, so it should have been reported. He believed that it was for the purpose of purchasing property and the same need not be reported under Section 35 of the Gujarat Public Trust Act 1950. He further requested that since it was only a wrongful belief and there was no malafide intention on his part, lenient view may be taken by the Committee.
  4. The Committee noted that the Respondent in his written representation dated 20<sup>th</sup> January 2025, inter-alia, stated as under: -
    - (a) On 19<sup>th</sup> January 2025, he received a copy of cheque and copy of receipt issued by "Shree Kalki Logistics Private Limited" confirming that the payment was made towards booking of Warehousing unit measuring 2300 Sq. Ft. Built up area at Shree Rajlaxmi Logistics Park, Village Dhamangaon, Tal. Bhiwandi, District, Thane.
    - (b) The alleged documents belong to the year 2012 which is older than more than 10 years. They were not traceable readily and received on 19<sup>th</sup> January 2025 by him from the Trust and therefore submitted afterwards.
    - (c) The copy of the cheque and receipts are in accordance with the Management representation letter provided to him by the Trust. It is confirmed that the payment was made for acquiring property for earning income which is towards furtherance of the objects of the Trust and not an advancement of loan. Therefore, it is not a violation of Section 35 of the Gujarat Public Trust Act, 1950 since the payment was made for acquiring assets.

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- (d) The Trust of the Dawoodi Bohra Community where his Holiness i.e. (Head of the Dawoodi Bohra Community) is the sole trustee, do not pay interest or accept interest in accordance with the tenets of the Holy Quran.
- (e) Under any circumstances even if the amount under reference is considered to be an advancement of loan with Shree Kalki Logistics Private Limited, the Trust has not made any loss of revenue as they are not accepting or paying interest in accordance with the tenets of the Holy Quran.
- (f) No malafide intention was involved on his part.
- (g) The Respondent further admitted the mistake committed on his part and requested the Committee to take a lenient view in his case.
5. The Committee also noted that the Complainant vide communication dated 16<sup>th</sup> January 2025, 20<sup>th</sup> January 2025 and 21<sup>st</sup> January 2025, inter-alia, made the following submissions:
- (a) While auditing the religious Trust, it is the duty of the auditor to verify who is operating the bank account of the trust.
- (b) In the cheque which the auditor has provided, signatures of Mulla Sajjad Husainibhai and J.A.V (Johar Ahmedali Vohra) are shown. Neither of the signatures are of the Registered Trustee.
- (c) Also, the Auditor has presented a receipt which has no revenue stamp affixed on it (Revenue stamp is mandatory to be attached for amount exceeding Rs 5000 as per Indian Stamp Act 1899). Further, if a Company provides a receipt, it has a printed serial number on the receipt. The receipt presented by the Respondent has no serial number. Also, the contact number of the Company in the receipt is not true.
- (d) The Respondent says that the Company name is Shree Kalki logistics Pvt ltd, not The Kalki logistics Pvt. ltd. But he has not pointed out this mistake in 6 years Balance Sheet. Further Management Representation letter also states that the name is The Kalki logistics Pvt. ltd.
- (e) If the money is provided to Shree Kalki logistics Pvt. Ltd. to acquire land, the Company is not financially stable as it has a paid-up capital of only Rs. 4.5 lakhs and has not filed the Balance Sheet from 2010. The Complainant questioned so for what benefit that huge money was provided to Company without security.
6. 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 together with the submissions of the Complainant.



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On consideration of the representation of the Respondent, the Committee held that no new facts and evidence can adduced at the stage of the award of punishment. It was incumbent upon the Respondent to adduce evidence when the case was under consideration for hearing under Rule 18 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

7. Keeping in view the facts and circumstances of the case and material on record including verbal and written representation on the Findings, the Committee noted the following as per its Findings dated 13<sup>th</sup> January 2025: -

Charge No.	Charge(s)	Decision of the Committee	Item of the Schedule in which Respondent held Guilty
1.	The Respondent being the auditor of the Trust has not mentioned in his Audit Report about the breach of Section 35 of the Gujarat Public Trust Act, 1950. The Respondent has not verified the deposit receipt of The Kalki Logistic Pvt. Ltd. The Assistant Charity Commissioner in his report presented to the Charity Commissioner (Ahmedabad) has accepted that the Trust has violated the provisions of Section 35 of the Gujarat Public Trust Act, 1950.	Guilty	Item (7) & (8) of Part-I of the Second Schedule.

- 7.1 The Respondent pleaded 'Guilty' to the charge alleged against him before it at the time of hearing held on 16<sup>th</sup> December 2024. Accordingly, in terms of provisions of Rule 18 (8) of Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee recorded the plea of guilt of the Respondent. The Committee noted that the Respondent conducted the audit of the Trust for the FY 2011-12 to 2016-17. The alleged amount of Rs 23.23 lakhs was continuously shown as Other Deposits in the Balance Sheets from FY 2011-12 till 2016-17 without adjusting the amount against the purchase of assets. Though, the said amount was returned to the Trust in F.Y. 2017-18 as admitted by the Respondent.

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# भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

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- 7.2 The Committee also observed that if the Respondent did not get sufficient documents for verification in respect of material item of the Balance Sheet, he should have considered to issue either qualified or disclaimer of opinion in terms of requirement of SA 705, but he failed to do so.
- 7.3 Also, the Assistant Charity Commissioner, Surendra Nagar (Gujarat) in his report mentioned that the Trust has breached the requirement of Section 35 of the Gujarat Public Trust Act, 1950. Thus, the Committee held that the Respondent as an auditor failed to point out the violation of Section 35 of the Gujarat Public Trust Act, 1950 in his audit report.
- 7.4 Hence, Professional Misconduct falling within the meaning of Item (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 on the part of the Respondent is clearly established as held in the Committee's Findings dated 13<sup>th</sup> January 2025 which is to be read in consonance with the instant Order being passed in the case.
8. 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.
9. Thus, the Committee, keeping in view the facts and circumstances of the case, material on record and representation of the Respondent before it, ordered that a Fine of Rs.25,000/- (Rupees Twenty-Five Thousand only) be imposed upon CA. Ankit Ashokkumar Chokshi (M. No. 110303), Ahmedabad, payable within a period of 60 days from the date of receipt of the Order.

Sd/-

(CA. RANJEET KUMAR AGARWAL)  
PRESIDING OFFICER

Sd/-

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

Sd/-

(CA. SANJAY KUMAR AGARWAL)  
MEMBER

प्रमाणित सत्य प्रतिलिपि / Certified True copy

सीए अंशुल कुमार / CA. Anshul Kumar  
सहायक निदेशक / Assistant Director  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
भारतीय सनदी लेखाकार संस्थान  
The Institute of Chartered Accountants of India  
आईसीएआई भवन, विश्वास नगर, शहदरा, दिल्ली-110032  
ICAI Bhawan, Vishwas Nagar, Shendra, Delhi-110032

Sd/-

(CA. COTHA S SRINIVAS)  
MEMBER

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2024-2025)]

[Constituted under Section 21B of the Chartered Accountants Act,1949]

Findings under Rule 18(8) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

File No.: - [PR/510/2022/DD/450/2022-DC/1910/2024]

In the matter of:

**Shri Kutbuddin H. Vohra**

C/o Raj Cycle Store,

Opp.Mega Mall,

Zala Road,

**DHRANGADHRA (GUJARAT) – 363 310.**

**...Complainant**

**Versus**

**CA. Ankit Ashokkumar Chokshi (M. No. 110303)**

301-302, Gurukrupa Avenue,

Above Central Bank of India Bhudarpura Branch,

Near Manekbaug Circle,

**AHMEDABAD (GUJARAT) – 380 015.**

**...Respondent**

MEMBERS PRESENT (in person):

**CA. Ranjeet Kumar Agarwal, Presiding Officer**

**Mrs. Rani S. Nair, IRS (Retd.), Government Nominee**

**Shri Arun Kumar, IAS (Retd.), Government Nominee**

**CA. Sanjay Kumar Agarwal, Member**

**CA. Cotha S Srinivas, Member**

**DATE OF FINAL HEARING : 16<sup>th</sup> December 2024**

PARTIES PRESENT:

**Complainant : Shri Kutbuddin H. Vohra (Through VC)**

**Respondent : CA. Ankit Ashokkumar Chokshi (M. No. 110303) (Through VC)**

1. Background of the Case:

1.1 The Respondent was the Statutory auditor of Dawoodi Bohra Jamat, Dhrangadhra (hereinafter referred to as the "Trust"), for the financial years 2011-12 to 2016-17. As per the Complainant, the Respondent failed to point out certain violation of Section 35 of the Gujarat Public Trust Act, 1950 and he was negligent while performing his duties as auditor. As per the audited financial statements for the aforementioned years, the Trust has shown an amount of Rs.23.23 lakhs as deposits to The Kalki Logistics Pvt. Ltd. and the said investment was not in accordance with the requirements of Section 35 of the Gujarat Public Trust Act, 1950.

2. Charges in brief:

The Committee noted the following was alleged by the Complainant against the Respondent together with the view of the Director(Discipline) on the same:

<u>S.No.</u>	<u>Charge(s)</u>	<u>Prima Facie Opinion of the Director(Discipline)</u>
2.1	The Respondent being the auditor of the Trust has not mentioned in his Audit Report about the breach of Section 35 of the Gujarat Public Trust Act, 1950. The Respondent has not verified the deposit receipt of The Kalki Logistic Pvt. Ltd. The Assistant Charity Commissioner in his report presented to the Charity Commissioner (Ahmedabad) has accepted that the Trust has violated the provisions of Section 35 of the Gujarat Public Trust Act, 1950.	Guilty
2.2	The Company, namely The Kalki Logistics Private Limited in which the money has been invested, does not exist as per record of the Ministry of Corporate Affairs (hereinafter referred to as "MCA") official website.	Not Guilty

3. The relevant issues discussed in the Prima Facie Opinion dated 07<sup>th</sup> May 2024 formulated by the Director (Discipline) in the matter in brief, are given below: (only in respect of allegation 2.1 in which the Respondent had been held prima facie guilty)

3.1 Before dealing with the matter on its merits, it was noted that the Respondent made submission that the matter pertains to the Financial Year 2011-12 and more than 7 years has elapsed since the period of misconduct. The Respondent stated that he does not have physical documents of the Trust. He only has a scanned copy of the management letter. In respect of the above submission of the Respondent, it was observed that the Respondent had conducted the audit of the Trust for the financial years 2011-12 to 2016-17. In all the financial years, the deposit of Rs.23.23 lakhs were reflected in the assets side of the Balance

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Sheets of the Trust. The date(s) on which the Respondent signed the audit reports for different Financial Years has been tabulated as under:

S. No.	Financial Year	Date of signing of Audit Report
1.	2011-12	14.08.2014
2.	2012-13	14.08.2014
3.	2013-14	14.08.2014
4.	2014-15	08.01.2018
5.	2015-16	08.01.2018
6.	2016-17	08.01.2018

Since, the Balance Sheet of the Trust as on 31.03.2017 was signed on 08.01.2018 and accordingly, the Respondent cannot take shelter under the defence that the matter pertains to the period 2011-12 only. Since the amount of deposit was material i.e.70% of the total size of the Balance Sheet as on 31.03.2017, in terms of the requirement of SA-230 (Audit Documentation) read with SQC-1, the Respondent was required to retain his working papers for a period of 7 years i.e. till January, 2025. Hence, the Respondent's plea that he does not have documents except management representation letter, to defend himself is not acceptable.

3.2 In respect of the charge specified at S.no. 2.1 of Para 2 above, the Respondent stated that as per management representation letter dated 15.06.2014 available with him, the advance / deposit was made to The Kalki Logistics Private Limited as advance for acquiring assets for the furtherance of the objects of the Trust. However, till the date of the management representation letter, the documentation with respect to the deposit made in The Kalki Logistics Private Limited was pending due to which the Trust could not submit the documents to him. However, he was assured that the documents would be provided to him once the same gets completed.

3.2.1 In respect of the requirement of Section 35 of the Gujarat Public Trust Act, 1950, it was observed that the provisions of the said Section are as under: -

*"35.(1) Where the trust property consists of money and cannot be applied immediately or at any early date to the purposes of the public trust the trustee shall be bound [(notwithstanding any direction contained in the instrument of the trust) to deposit the money in any Scheduled Bank as defined in the Reserve Bank of India Act, 1934, in the Postal Savings Bank or in a Cooperative bank approved by the State Government for the purpose or to invest it in public securities]:*

*Provided that such money may be invested in the first mortgage of immovable property situate in [any part of India] if the property is not leasehold for a term of years and the value of the property exceeds by one half the mortgage money:*



*Provided further that the Charity Commissioner may by general or special order permit the trustee of any public trust or classes of such trusts to invest the money in any other manner.*

*[(2) Nothing in sub-section (1) shall effect any investment or deposit already made before the coming into force of the Bombay Public Trusts (Amendment) Act, 1954, in accordance with a direction contained in the instrument of the trust:*

*Provided that any interest or dividend received or accruing from such investment or deposit on or after the coming into force of the said Act or any sum [so invested or deposited] on the maturity of the said investment or deposit shall be applied or invested in the manner prescribed in sub-section (1).]"*

From the above, it was clear that if the trust property consists of money and it cannot be applied immediately or on any early date to the purpose of the public trust, the trustee shall be bound to deposit the money in any scheduled bank, postal saving bank or in a Cooperative bank.

3.2.2 In the instant matter, the Respondent claimed that the Trust had given the money to The Kalki Logistics Private Limited for acquiring assets for the furtherance of the objects of the Trust and accordingly, it was shown as Other Deposits in the Balance Sheet as on 31.03.2012. Hence, it appears that the Respondent claimed that since the money was given for acquiring assets for the furtherance of the object of the Trust, there was no idle money lying with the Trust which was required to be deposited in accordance with the provisions of Section 35 of the Trust Act.

3.2.3 In this regard, it is observed that the said amount of Rs.23.23 lakhs was continuously being shown as other deposits in the Balance Sheets as on 31.03.2012, 31.03.2013, 31.03.2014, 31.03.2015, 31.03.2016 & 31.03.2017 without adjusting the amount against purchase of assets. Since all these Balance Sheets were signed by the Respondent, it is abundantly clear that it was within the knowledge of the Respondent that no assets have been purchased by the Trust against the amount of Other deposit and accordingly, the said amount cannot be considered as the amount applied for the furtherance of the objects of the Trust. The Respondent should have applied his professional skepticism and raised question on the amount of other deposits. However, the Respondent does not appear to do so as it is evident from his submissions that he merely relied upon the management representation letter of the Trust and the necessary documents / agreement relating to the purchase / acquisition of assets was not available to him. Despite this, the Respondent reported as under: -

“ ....

7. That no property or fund of the Trust were applied for any objects or purpose other than the objects or purpose of the Trust.

....

10. That no money of Public Trust has been invested contrary to the provisions of Section 35.”

Hence, in view of the above discussion, the Respondent's submissions that the Other Deposit represents the amount given as advance for acquiring the assets for the furtherance of the object of the Trust is not tenable.

3.2.4 Moreover, the Respondent himself admitted that the said amount was returned back to the Trust in the financial year 2017-18. Hence, it appears that the entry of Other Deposits appears to be made / shown in the Balance Sheet just to avoid the applicable requirements of the Trust Act. The Hon'ble Supreme Court in a matter "State of Gujarat & Anr. v. Acharya D. Pandey & Ors. (1971 AIR 866)", held as under:

*“Section 35(1) of the BPT Act creates a quasi-criminal offence as it is a regulatory provision. It is enacted with a view to safeguard the interest of the public regarding trust money.”*

Based on this it can be conferred that it was the duty of the Respondent to ensure that the trust money is put to use in accordance with the relevant Statutes while safeguarding the public interest. The Respondent as auditor should have pointed out the violation of Section 35 of the Trust Act in his audit report. Moreover, if the Respondent did not get sufficient documents for verification in respect of material item of the Balance Sheet, he should have considered to issue either qualified or disclaimer of opinion in terms of requirement of SA 705, but he failed to do so.

3.2.5 In addition to the above, the Assistant Charity Commissioner, Surendranagar (Gujarat) in his report mentioned that the Trust has breached the requirement of Section 35 of the Trust Act.

3.3 Accordingly, the Respondent is held prima facie **Guilty** of Professional Misconduct falling within the meaning of Item (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

3.4 It was also observed that the Complainant also made allegation that Shri Mohammad F. who presented the books of accounts to the Respondent firm is not the registered trustee as per Public Trust Register and Shri Kadir S. Wardhawala who signed the management representation letter, was not an employee of the Trust on the date of issuance of management representation letter. Since these allegations were not part of the prescribed complaint Form 'I', the consideration of the same would result in extension of allegations. Therefore, no observation was being given on the same.

3.5 Accordingly, the Director (Discipline) in his Prima Facie Opinion dated 07<sup>th</sup> May 2024 opined that the Respondent is prima facie **Guilty** of Professional Misconduct falling within the meaning of Item (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said Item of the Schedule to the Act, states as under:

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

"A Chartered Accountant in practice shall be deemed to be guilty of professional misconduct if he:

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

**Item (8) of Part I of the Second Schedule:**

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

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

3.6 The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee at its meeting held on 18<sup>th</sup> September 2024. The Committee, on consideration of the same while concurring with the reasons given against the charge(s) also observed that no observation was made by the Director (Discipline) in respect of the allegation referred to in para 13 of the Prima Facie Opinion as the same was not referred to in the complaint in the prescribed Form I'. The Committee was of the view that although the said allegation was not referred to in the complaint in the prescribed Form I, the same was referred to in the letter of allegation annexed to the said Form I. However, the documentary evidence to substantiate the said allegation are in regional language and only self-verified translated copy of the relevant page has been provided by the Complainant which cannot be treated as conclusive evidence to prove the said allegation and thus, the said allegation remains unsubstantiated against the Respondent. Accordingly, the Committee 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) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 and decided to proceed further under Chapter V of these Rules.

**4. Date(s) of Written submissions/Pleadings by parties:**

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

S. No.	Particulars	Dated
1.	Date of Complaint in Form 'I' filed by the Complainant	16.08.2022
2.	Date of Written Statement filed by the Respondent	22.09.2022
3.	Date of Rejoinder filed by the Complainant	19.10.2022
4.	Date of Prima Facie Opinion formed by Director (Discipline)	07.05.2024
5.	Written Submissions filed by the Respondent after Prima Facie Opinion	12.11.2024
6.	Written Submissions filed by the Complainant after Prima Facie Opinion	11.11.2024

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

The Respondent vide letter dated 12<sup>th</sup> November 2024, inter-alia, submitted as under: -

- a) The non reporting of the money advanced to Shree Kalki Logistics Private Limited was based on the discussion with the management and Management representation letter provided to him. The Respondent in his belief and opinion that since the money advanced was for acquiring property as duly mentioned in the management representation letter, it was considered as invested for the purpose of the trust only and therefore the Respondent was of the opinion and belief that there was no violation of Section 35, did not report in the audit report.
- b) The Respondent further humbly assured that he will take more care in future and whenever it would appear to him that the different opinion could arise, he will put more efforts in studying the matter and report suitably.

6. **Written Submissions filed by the Complainant:**

The Complainant vide letter dated 11<sup>th</sup> November 2024, inter-alia, submitted as under: -

- a) The certified translation copies of the public trust register (PTR) clearly state that Mr. Mohammad F who has represented the audited Balance Sheet to charity office is not a legal trustee of the trust.
- b) The Respondent has audited the account based on the representation letter by Mr. Kadir S Wardhawala who was not a part of Trust as the letter presented to the Respondent are on dated 15/06/2014 and 02/01/2018 and Mr. Kadir S Wardhawala has stated in court hearing that he has resigned from the Trust from 2013. So, it is proved that in 2014 and 2018 Mr. Kadir was not a part of trust management.
- c) The bank account statements received in the case hearing of the trust in Dhrangadhra Judicial Court, clearly show that the books of account were not verified by the Respondent as many faults were found in the bank statement and the Balance Sheet presented by the Respondent. The details are as under:

Date	Bank Statement page no	Amount as per Bank Statement	Amount in Balance Sheet
31-03-2012	04	14,325.50	16,326.00
31-03-2013	04	32,204.50	34,205.00
31-03-2014	04	1,65,777.50	1,67,777.00
31-03-2016	06	22,748.97	22,748.00
31-03-2017	06	45,049.04	45,049.00

From the details from the above table, it is clear that the Respondent has not verified books of account, vouchers, receipts and has made the Balance Sheet based on only the resigned Trustee's representation letter.

- d) The Bank Account of trust were opened and operated by non- registered trustee till year 2022. On complain to the PNB bank, the bank has debit freezed the trust account which proves that the operation of bank account was done by non-registered trustee. The Balance Sheet registered with Assistant Charity Commissioner, Surendranagar is duly signed by the non-registered trustee.

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

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

Particulars	Date of meeting(s)	Status
1 <sup>st</sup> Hearing	16 <sup>th</sup> December 2024	Hearing Concluded and decision taken

- 7.2 On the day of hearing on 16<sup>th</sup> December 2024, the Committee noted that the Complainant and the Respondent were present before it through video conferencing. Thereafter, the Complainant and the Respondent were administered on Oath. The Committee enquired from the Respondent as to whether he was aware of the charge(s) alleged against him to which he replied in the affirmative. **He also pleaded Guilty to the charge(s) levelled against him.**
- 7.3 Looking into the fact that the Respondent pleaded guilty to the charge(s) levelled against him, the Committee, in terms of the following provisions of Rule 18(8) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, decided to conclude the hearing in the case and arrive at its Findings:

***"18. Procedure to be followed by the Committee***

*(8) If the respondent pleads guilty, the Committee shall record the plea and take action as per provisions under Rule 19."*

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

- 8.1 At the outset, the Committee noted that the Complainant in his written submissions made during the course of hearing has submitted certain evidences with respect to allegations for which the Respondent has already been held not guilty at Prima Facie Opinion stage (Refer Para 3.7- above). The decision of the Committee on the Prima Facie Opinion has also been communicated to the parties to the case on 22<sup>nd</sup> October 2024. Accordingly, the said submissions of the Complainant have not been taken into view by the Committee while

arriving at its Findings. Thus, the sole charge in respect of which the conduct of the Respondent has been examined by the Committee is as under:

- (a) The Respondent being the auditor has not mentioned in his audit report about the violation of Section 35 of the Gujarat Public Trust Act, 1950.
- 8.2 The Committee also noted that the Respondent pleaded 'Guilty' to the charge alleged against him before it at the time of hearing held on 16<sup>th</sup> December 2024.
- 8.3 The Committee noted that the Respondent conducted the audit of the Trust for the financial years 2011-12 to 2016-17. The alleged amount of Rs.23.23 lakhs was continuously being shown as other deposits in the Balance Sheets as on 31.03.2012, 31.03.2013, 31.03.2014, 31.03.2015, 31.03.2016 and 31.03.2017 without adjusting the amount against purchase of assets. Since all these Balance Sheets were signed by the Respondent, it is abundantly clear that it was within the knowledge of the Respondent that no asset has been purchased by the Trust against the amount of Other deposit and accordingly, the said amount cannot be considered as the amount applied for the furtherance of the objects of the Trust. The Respondent merely relied upon the management representation letter of the Trust and the necessary documents / agreement relating to the purchase / acquisition of assets was not available to him. Despite this, the Respondent in his Audit Report reported as under: -

“....

*7. That no property or fund of the Trust were applied for any objects or purpose other than the objects or purpose of the Trust.*

....

*10. That no money of Public Trust has been invested contrary to the provisions of Section 35.”*

Moreover, the Respondent himself admitted that the said amount was returned back to the Trust in the financial year 2017-18.

- 8.4 The Committee also observed that if the Respondent did not get sufficient documents for verification in respect of material item of the Balance Sheet, he should have considered to issue either qualified or disclaimer of opinion in terms of requirement of SA 705, but he failed to do so.
- 8.5 Also, the Assistant Charity Commissioner, Surendranagar (Gujarat) in his report mentioned that the Trust has breached the requirement of Section 35 of the Trust Act.
- 8.6 Thus, the Committee held that the Respondent as an auditor failed to point out the violation of Section 35 of the Gujarat Public Trust Act, 1950 in his audit report.
- 8.7 Accordingly, the Committee in terms of Rule 18(8) of Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 recorded the plea of guilt of the Respondent and decided to hold him **Guilty** of Professional

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Misconduct falling within the meaning of Item (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

9. **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 8.1 to 8.6 as above	<b>Guilty-</b> Item (7) and (8) of Part-I of the Second Schedule

10. In view of the above observations, considering the oral and written submissions of the parties to the case and material on record, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) and (8) 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/-**  
**(MR. ARUN KUMAR, I.A.S., RETD.)**  
**GOVERNMENT NOMINEE**

**Sd/-**  
**(CA. SANJAY KUMAR AGARWAL)**  
**MEMBER**

**Sd/-**  
**(CA. COTHA S SRINIVAS)**  
**MEMBER**

**DATE : 13<sup>th</sup> January 2025**  
**PLACE : NEW DELHI**

  
श्री रणजीत कुमार / CA Ranjeet Kumar Agarwal  
सहायक निदेशक / Assistant Director  
अनुशासन विभाग / Discipline/Inspector  
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