

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2024-2025)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(17) and Order under Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

File No: PR/G/73/2022-DD/416/2022/DC/1726/2023

In the matter of:

Dr. Alpesh Maniya

Deputy Registrar of Companies
Registrar of Companies, Mumbai
Ministry of Corporate Affairs
100, Everest, Ground Floor, Marine Drive,
Mumbai (Maharashtra) – 400002.

..... Complainant

-Versus-

CA. Ranjan Periwal (M. No. 139143)

F-25, Sej Plaza, Near Nutan School Marve Road,
Marve Road & SV Road Junction,
Mumbai (Maharashtra) – 400064.

..... Respondent

Members Present:

CA. Ranjeet Kumar Agarwal, Presiding Officer (in person)
Mrs. Rani S. Nair, IRS (Retd.), Government Nominee) (Through VC)
Shri Arun Kumar, IAS (Retd.), Government Nominee (in person)
CA. Cotha S Srinivas, Member (in person)

DATE OF FINAL HEARING : 18th 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: Shri. Rajiv Kadam, Senior
Technical Officer, office of ROC (Through VC)**

Respondent: CA. Ranjan Periwal (M.No. 139143) (Through VC)

Counsel for the Respondent: Mr. S.G. Gokhale, Advocate (Through VC)

1. BACKGROUND OF THE CASE:

- 1.1. It was stated by the Complainant Department that it had come to the knowledge of the Central Government that certain Chinese Director or individuals/Shareholders/entities in certain involved Companies had engaged dummy persons as subscriber's to MOA and as Directors and they got registered these Companies with ROC, Mumbai by using forged documents/falsified addresses/signatures, Director identification Number (DIN) obtained by furnishing false/forged document to MCA. The Companies / Chinese individuals or entities directly or indirectly connected with these Companies are found

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to be engaged in illegal/ suspicious activities, money laundering, Tax evasion and non-compliance of various provisions of laws.

- 1.2. Further, certain professionals have connived with these Companies/their directors/subscribers to MOA and Chinese individuals who were acting behind these Companies. The professionals, despite having knowledge of the aforesaid facts incorporated these Companies and were also assisting in running of these Companies for illegal/ suspicious activities in violation of various laws.
- 1.3. They also certified various Reports/ E-Forms filed with Ministry of Corporate Affairs on MCA 21 Portal with false information or by concealing the material facts/ information to hide the real identity of Chinese person behind the Companies particularly at the time of incorporation. They also allegedly filed financial statements without attaching the annexure of Borrowing/ Loan & Advances/Investments/Inventories and Notes to Accounts for hiding material information.
- 1.4. In the instant case, the Respondent had certified e-Form 22A {ACTIVE (Active Company Tagging Identities and Verification)} of '**M/s Harbin Electric India Company Private Limited**' (hereinafter referred to as the '**Company**') and he was also the Statutory Auditor of the Company for the financial years 2018-19 to 2020-21.

2. CHARGES IN BRIEF:

- 2.1. The Complainant Department informed that the Respondent had certified e-Form INC-22A of the Company wherein the registered office address of the Company was shown as, "D-201, Shyamkamal Building, Agarwal Market, Vile Parle East, Mumbai, Maharashtra 40057 India". However, during the physical verification, it was seen that the said registered office was not maintained by the Company. Thereby, it was alleged that false information / statement had been submitted by the Respondent in Form INC-22A. Further, it was also informed that inquiry under Section 206(4) of the Companies Act, 2013 had been initiated into the affairs of the Company and complaint had also been lodged with Marine Drive Police Station on 06.01.2022.

3. THE RELEVANT ISSUE DISCUSSED IN THE PRIMA FACIE OPINION DATED 26th DECEMBER, 2022 FORMULATED BY THE DIRECTOR (DISCIPLINE) IN THE MATTER IN BRIEF, IS GIVEN BELOW:

- 3.1. The Respondent had certified e-Form 22A of the Company (under Rule 25A Companies (Incorporation) Amendment Rules, 2019) wherein the Registered Office address of the Company was shown as, "**D-201, Shyamkamal Building, Agarwal Market, Vile Parle East, Mumbai, Maharashtra 40057 India**". However, during the physical verification, the Company's office was not found available at such an address while the Respondent certified the same address as Registered Office of the Company in Form 22A. He was also Statutory Auditor of the Company for the financial years 2018-19 to 2020-21.
- 3.2. On perusal of various documents and submissions available on record and on the Certificate of Incorporation of the Company and Form 18 filed for the incorporation of the Company in the November 2011, it was noted that same address of the Company D-201, Shyamkamal Building, Agarwal Market, Vile Parle East, Mumbai, Maharashtra 40057 India) was there.

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- 3.3. In his Written Statement, the Respondent stated that the Registered Office address of the Company was the same since its incorporation and had never been changed.
- 3.4. It was noted that as per the mandatory requirement of Form 22A and instruction kit for e-Form 22A, the photograph of Registered Office of the Company showing external building and inside office also showing therein at least one director / KMP who had affixed his / her Digital Signature to e-Form 22A is mandatorily required to be attached while filing Form 22A. However, the Respondent stated that he had acquired the photograph showing external building and inside office showing therein one Director from the Company through email dated 11.04.2019. The said submissions of the Respondent clearly proved that he had certified the impugned Form 22A of the Company only on the basis of certain documents / photographs received over email from the Company.
- 3.5. In the photographs sent by the Company to the Respondent and attached to Form INC-22A, certified by the Respondent, the name Board of the Company was not found to be affixed outside the premises. Thereby, it was not ascertainable whether it is the registered office of the Company, or any other building and it is also not known at this stage as to how Respondent satisfied himself on the same before certification of impugned Form 22A when he himself did not visit the office and was merely relying upon the documents / photos shared by the management of the Company with him over email.
- 3.6. Further, when the Respondent was specifically asked at Rule 8(5) stage, to "provide documentary evidence to support that he visited the registered office of the Company and to provide the current photographs of the registered office of the Company specified in Form INC-22A", he stated that, "*he do not have access to the registered office of the Company and that the said premises is owned by some independent person, thus he is not in a position to provide the current photograph of the registered office address of the Company.*"
- 3.7. It was noted that the Respondent was also the Statutory Auditor of the Company. In this regard, at Rule 8(5) stage, the Respondent was also asked to submit the copy of Bank Statement of the Company for the financial years 2020-21 and 2021-22 to substantiate that rent was paid to the landlord'. However, in response, the Respondent stated that, "*the same was not paid to the landlord as per the information and records of the Company and on discussion with the management regarding the same, it was found that the rent shall be paid to the landlord when the Company will start its business operations and not before that*". The said submission / response of the Respondent itself creates a serious doubt that no such registered office as certified by the Respondent in Form 22A of the Company, was maintained by the Company.
- 3.8. The Respondent has also failed to bring any other documentary evidence on record to prove that rent of the said premises had been waived off, if any by the landlord / actual owner of the said premises.
- 3.9. Thus, the Respondent failed to prove reasonably that the Company had been actually functioning from its registered office address which raises doubt about the genuineness and the existence of Registered office of the Company and it is highly incomprehensible that the Respondent, despite being also the Statutory Auditor of the Company, was not aware of this fact. Accordingly, it was viewed that the Respondent

is prima facie **GUILTY** of Professional and 'Other' Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule and Item (7) of Part-I of the Second Schedule to the Chartered Accountants Act, 1949. The said Item(s) of the Schedules to the Act, state as under:

Item (2) of Part IV of First Schedule:

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

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

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

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

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

3.10. The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee at its meeting held on 25th January 2023. The Committee on consideration of the same, concurred with the reasons given against the charge and thus, agreed with the Prima Facie opinion of the Director (Discipline) that the Respondent is **GUILTY** of Professional and Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule and Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

4. 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 Department	16 th August, 2022
2.	Date of Written Statement filed by the Respondent	6 th September, 2022
3.	Date of Rejoinder filed by the Complainant Department	-
4.	Date of Prima facie Opinion formed by Director (Discipline)	26 th December, 2022
5.	Written Submissions filed by the Respondent after Prima Facie Opinion	4 th April 2023, 16 th April 2024, 10 th May 2024 and 11 th May 2024
6.	Written Submissions filed by the Complainant Department after Prima Facie Opinion	1 st May 2024, 13 th December 2024 and 30 th December 2024

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5. WRITTEN SUBMISSIONS FILED BY THE RESPONDENT:

- 5.1 The Respondent vide letter dated 4th April 2023, inter alia, made the following submissions: -
- 5.1.1 The ROC had proceeded completely on conjectures, surmises, and baseless assumptions. The complaint was misleading.
- 5.1.2 The impugned Company was incorporated on 15.11.2011 and he or his firm had no role in the process of the incorporation of the Company.
- 5.1.3 He was appointed as statutory auditor for F.Y. 2018-2019 onwards.
- 5.1.4 It was informed to the Respondent by the Company that, almost around the same time (of incorporation) the Government of India increased the import duty of electrical goods from China. Thus, the Company could not even start any business and remained non-functional right since inception. Out of the share capital of Rs.45 lakhs introduced after incorporation a sum of Rs.40 lakhs was deposited in fixed deposits of Standard Chartered Bank. There were very few transactions except for the earning of interest on bank FDs such as audit fee, payment of rent in initial years and few small expenses.
- 5.1.5 Since it was mandatory to have registered office with some documentary evidence, the Company entered into rent agreement for the office with the landlord Mr. Jitendra Jain, who himself was a Chartered Accountant. The Agreement was executed and renewed from time to time just for the sake of records.
- 5.1.6 However, since there was no occasion or opportunity for the Company to effectively use the office, no rent was paid or provided. The landlord also never insisted upon payment also and in a way, he deferred the receipt it by his conduct.
- 5.1.7 It is common knowledge that for many practical reasons, many companies have a registered address at a particular place; but they effectively function from another place (administrative office). There is nothing wrong or irregular about it so long as it is disclosed on its stationery, etc.
- 5.1.8 He had certified the Form no. 22A (which was newly introduced) in 2019. The ROC inspection team visited the said premises after a gap of 2 to 3 years. It is completely illogical to hold a CA responsible by visiting a place 2 to 3 years after he had issued the certificate of location.
- 5.1.9 The landlord was a practicing CA known to him and he had occasionally visited his office in the initial years of the services for work other than the Company work.
- 5.1.10 The Company has approached NCLT for permission to reduce the capital. It is a step towards winding up of the Company since it was a non-starter, the Promoters are not interested in continuing with the same.
- 5.1.11 There was no activity and no business of the Company for more than 10 years. Nothing could be found in the registered office.
- 5.1.12 The Complainant has not produced any contrary evidence which showed that the Company had any business or activity in India.

- 5.1.13 After filing the complaint, the Complainant (ROC's office) has neither filed the rejoinder nor replied to the further requirements raised by the Directorate.
- 5.1.14 The Prima Facie Opinion has overlooked the gap between the date of certification and date of visit by ROC inspection team.
- 5.1.15 The Respondent had visited the place on various occasions, and it is a fact that there was an office.
- 5.1.16 There was no requirement of any law or Rule that a CA while certifying should personally visit the place.
- 5.2 The Respondent vide his letter dated April 16, 2024, submitted that with reference to complaint to Police Station against the Respondent, letter received from EOW clarifies that the Respondent is not involved in the matter and he is not required in for further investigation.
- 5.3 The Respondent vide letter dated 10th May 2024, inter-alia, made the following submissions: -
- a) Form no. 22A was introduced by MCA as one time exercise to verify the genuineness of Registered Office address as filed with ROC. The Company was incorporated on November 15, 2011. The paid-up Capital of the Company was Rs.45 Lacs out of which amount of Rs.40 Lacs was invested in Fixed Deposit with Bank. Apart from getting interest on F.D., there was no other activity of the Company. Originally there were 3 directors (all Chinese individuals) but later on there were only two directors i.e. one Indian and other Chinese and there was not a single employee.
 - b) In the photograph attached to the said Form, the Director is seen. With respect to the "Name Board" of the Company in the photographs, as per Rule 25A - attachments and Form 22A attachments, only two photographs are required to be attached, and the nature of photos is such that Name Board cannot be captured in the photos. Further, featuring Name Board is not a specific requirement.
 - c) With respect to relying on photographs/documents shared by management over email, the Respondent submitted that visiting premises specifically at the time of certification is not required. The Respondent has visited the premises on number of occasions and also seen original rent agreement. It is only for certification/filing, that things were received over email.
 - d) The Respondent is not associated with the Company as an Auditor as of now. In view of this he had stated as "not have access". As regards his visits as an Auditor, there is no independent evidence of the same.
 - e) Existence of premises/maintenance of registered office is an issue independent of payment of rent. There can be various reasons for non-payment of rent or other issues with landlord and the same are not decisive of fact of existence / using/non-using of premises.
 - f) Neither any warrant has been issued, nor any arrest has been made of the Respondent.
 - g) There is no dispute about existence of premises itself. In fact, the same is admitted by the representative of the Complainant Department at the hearing.

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5.4 The Respondent vide letter dated 11th May 2024, in response to the Inspection Report of the Company pointing out violations of various provisions of Companies Act inter-alia, made the following submissions: -

- a) The visit of ROC officials for inspection was on December 29, 2021, as against the Form No. 22A which was filed on December 4, 2019. It is implicit from the report that the premises of the registered office address do exist, and it is not a bogus or fictitious address.
- b) With respect to the observation in the report given by the Complainant Department that the Company is not maintaining its registered office, the Respondent submitted that the said observation is devoid of any material particulars on the basis of which said conclusion is reached, such as what was found/not found during the inspection, with whom and what the enquiries, if any, were made etc.
- c) The officials who made physical inspection have not deposed before the Committee nor have made any Affidavit giving the relevant and material particulars of the inspection and findings thereof.
- d) The Respondent reiterated that at the time of certification of Form 22A, the Company was maintaining registered office.

5.5 **SUBMISSIONS MADE BY THE COMPLAINANT DEPARTMENT:**

5.5.1 The Complainant Department vide letter dated 1st May 2024 provided a copy of the "Registered Office Inspection Report" of the Company dated 29.12.2021 and also informed that an Inquiry report (without furnishing a copy thereof) concerning the following violation of various provisions of the Companies Act, 2013 has been submitted:

- a) Violation of Section 448 of the Companies Act, 2013,
- b) Violation of Section 166(2) & (3) of the Companies Act, 2013,
- c) Violation of Section 206(4) of the Companies Act, 2013,
- d) Violation of Section 139(1) r/w Section 147 of the Companies Act, 2013,
- e) Violation of Section 92 of the Companies Act, 2013,
- f) Violation of Section 137 of the Companies Act, 2013,
- g) Violation of Section 12 of the Companies Act, 2013,
- h) Violation of Section 210(4) of the Companies Act, 1956 r/w Section 129 of the Companies Act, 2013
- i) Violation of Section 129 of the Companies Act, 2013,
- j) Violation of Section 158 r/w Section 134 of the Companies Act, 2013.

5.5.2 The Complainant Department vide communication dated 13th December 2024 followed by email dated 30th December 2024 provided the copy of complete "Inquiry report" dated 29th November 2022 in respect of the said Company wherein, inter-alia, it was observed (with respect to the role of the Respondent) as under:

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“STEPS TAKEN BY THIS OFFICE IN FURTHERANCE OF CONDUCTING THE INQUIRY:

As on the date of order of DGCOA for conducting inquiry into the affairs of the Company, Registered Office of the Company was situated at 'D-201, Shyamkamal Building, Agarwal Market, Vile Parle East, Mumbai MH 400057 IN'. However, when Spot inspection of the said Registered Office was done on 29.12.2021, wherein it was found that the company is not situated at the said Registered Office premises.

Violation of Section 12 of the Companies Act, 2013

The Registered Office of the Company at the time of incorporation was situated at 'D-201, Shyamkamal Building, Agarwal Market, Vile Parle East, Mumbai MH 400057 IN'. However, when Spot inspection of the said Registered Office was done on 29.12.2021, it was found that the company is not situated at the said Registered office premises which leads to violation of Section 12 of the Companies Act, 2013.”

6. BRIEF FACTS OF PROCEEDINGS:

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

S. No.	Particulars	Date(s) of meeting	Status
1.	1 st hearing	20 th April 2023	Part heard and adjourned.
2.	2 nd hearing	23 rd April 2024	Part heard and adjourned.
3.	3 rd hearing	17 th May 2024	Adjourned due to paucity of time
4.	4 th hearing	18 th June 2024	Hearing Concluded. Decision on the conduct of the Respondent was reserved.
5.	--	29 th August 2024	Committee decided to seek certain documents
6	--	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.
7.	--	03 rd January 2025	Decision on the conduct of the Respondent taken by the Committee.

6.2 On the day of the hearing held on 20th April 2023, the Committee noted that the Respondent along with his Counsel Mr. S.G. Gokhale, Advocate were present from BKC Mumbai of the ICAI. The Committee noted that neither the Complainant was present, nor was any intimation received from his side despite due notice/e-mail to him. 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 levelled against him. The Committee, looking into the absence of the Complainant and the fact that this was the first hearing, decided to adjourn the hearing to a future date.

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- 6.3 On the hearing dated 23rd April 2024, the Committee noted that the Authorized representative of the Complainant Department and the Respondent along with his Counsel was present before it through video conferencing. Since there had been a change in the composition of the Committee since the last hearing, the same was duly intimated to the Authorized Representative of the Complainant Department and the Respondent who were present before the Committee. Thereafter, the case was taken up for hearing.
- 6.4 On being asked by the Committee to substantiate their case, the authorized representative of the Complainant Department reiterated the contents of the 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. He emphasized that the Respondent did not in person visit the Registered Office of the Company while certifying Form 22A on 12th April 2019 as it was not the prescribed requirement. However, since he was the Statutory Auditor of the Company for the subsequent three years, he knew that the Registered Office of the Company was in existence at that place.
- 6.5 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.
- 6.6 Thus, on consideration of the submissions and documents on record, the Committee directed the Respondent to share a copy of his submissions with the Complainant Department. The Committee also directed the Authorized Representative of the Complainant Department to provide the following documents/information within next 10 days with a copy to the Respondent to provide his comments thereon, if any:-
- a) Copy of status report of the physical verification of the registered office of the alleged Company under question by the office of Registrar of Companies (ROC).
 - b) Update on the inquiry conducted with respect to the alleged Company under question under Section 206(4) of the Companies Act 2013.
 - c) Response on the written submissions made by the Respondent on the Prima Facie Opinion.
- 6.7 The Committee noted that the Complainant Department vide email/letter dated 01st May 2024 submitted its response. Thereafter, the case was fixed for hearing on 17th May 2024. However, the same could not be taken up for hearing on the said date due to paucity of time.
- 6.8 Thereafter, on the day of hearing dated 18th June, 2024, the Committee noted that the Authorized Representative of the Complainant Department and the Respondent along with his Counsel were present before it through video conferencing.
- 6.9 The Committee asked the Counsel for the Respondent to make their final submissions in the case to defend the Respondent. The Counsel for the Respondent presented the Respondent's line of defence, inter-alia, stating that he had filed his written submissions to counter the response of the Complainant Department vide email dated 11th May 2024. On consideration of the submissions made by the Counsel for the

Respondent, the Committee posed certain questions to him which were responded to by him.

- 6.10 Thus, on consideration of the submissions and documents on record, the Committee decided to conclude the hearing in the case. Accordingly, the decision on the conduct of the Respondent was kept reserved by the Committee.
- 6.11 Thereafter, the Committee at its meeting held on 29th August 2024, 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 was sent to the Complainant Department. In response thereto, the Complainant Department vide email dated 12th September 2024 informed that the required information has been sought from the concerned sections and upon receipt of same shall be forwarded to the Committee with due approval from appropriate authorities.
- 6.12 Thereafter, the Committee at its meeting held on 18th September 2024, considered the response of the Complainant Department dated 12th September 2024. The Committee was of the view that a reasonable time can only be granted to the Complainant Department to furnish the requisite documents/information. Accordingly, the Committee advised the office to ask the Complainant Department to provide the requisite documents/information within 07 days of the receipt of the Communication. Also, a copy of the said communication be sent to the DGCoA office with a request to ensure compliance within the stipulated time period. With this, the consideration of the case was deferred by the Committee.
- 6.13 Accordingly, a reminder email dated 03rd October 2024 was sent to the Complainant Department to provide copy of the Complete Investigation/Inquiry Report. The Complainant Department vide email dated 07th October 2024 informed that DGCoA permission is awaited to provide the subject Inquiry reports to the Disciplinary Committee. A request vide email of even date was sent to DGCoA office to ensure the compliance of the said direction of the Committee. Thereafter, a reminder email dated 21st November 2024 was again sent to the Complainant Department. In response thereto, the Complainant Department vide email dated 13th December 2024 followed by email dated 30th December 2024 provided a copy of the complete Inquiry Report dated 29th November 2022.
- 6.14 Thereafter, at its meeting held on 03rd January 2025, the Committee perused the copy of the complete Inquiry Report dated 29th November 2022. On perusal of the same, the Committee was of the view that no new observation/fact to establish the conduct of the Respondent is brought on record. The relevant observations from the same on the basis of which complaint has been made by the Complainant Department against the Respondent already forms part of the complaint in Form 'I'. Accordingly, the same need not be shared with the Respondent. Thus, the Committee duly considered the submissions and documents on record and decided on the conduct of the Respondent.

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7. FINDINGS OF THE COMMITTEE :-

- 7.1 In the instant case, the Committee noted that the Company was incorporated on 15th November 2011 and has its registered office located in Mumbai, Maharashtra. At the time of incorporation of the alleged Company, three Chinese individuals namely, Mr. Yun Dong having DIN No.03610540, Mr. Shiming Qiao having DIN No.03610546 and Mr. Wang Yaoxin having DIN No.03610550 were appointed as the Directors of the Company. Later on, Mr. Abhimanyu Mahendra Arya having DIN No.03643618 was also appointed as the Director of the Company w.e.f. 30th September 2014.
- 7.2 The Committee also noted that the Respondent apart from being the Statutory Auditor of the Company for the financial years 2018-2019 to 2020-2021 was also associated with the Company for certification of Form INC-22A on 12th April 2019, in respect of which the charge has been alleged against the Respondent in the instant case. The Committee noted that the Complainant Department informed that on physical verification of the Registered office of the said Company, it was found that the registered office of the Company was not maintained.
- 7.3 In this regard, the Committee noted that Ministry of Corporate Affairs (MCA) notified the Companies (Incorporation) Amendment Rules, 2019 on 21st February 2019 in which Rule 25A was inserted which was effective from 25th February 2019.
- 7.4 The Committee further took into view the provisions of Section 12 of the Companies Act 2013 which provides as under:

“Section 12: Registered Office of the Company

(1) A company shall, on and from the fifteenth day of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it.

(3) Every company shall—

(a) paint or affix its name, and the address of its registered office, and keep the same painted or affixed, on the outside of every office or place in which its business is carried on, in a conspicuous position, in legible letters, and if the characters employed therefor are not those of the language or of one of the languages in general use in that locality, also in the characters of that language or of one of those languages;

[(b) have its name engraved in legible characters on its seal, if any;

(c) get its name, address of its registered office and the Corporate Identity Number along with telephone number, fax number, if any, e-mail and website addresses, if any, printed in all its business letters, billheads, letter papers and in all its notices and other official publications; and

(d) have its name printed on hundies, promissory notes, bills of exchange and such other documents as may be prescribed:

Provided that where a company has changed its name or names during the last two years, it shall paint or affix or print, as the case

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may be, along with its name, the former name or names so changed during the last two years as required under clauses (a) and (c): Provided further that the words "One Person Company" shall be mentioned in brackets below the name of such company, wherever its name is printed, affixed or engraved."

Further, Rule 25A of Companies (Incorporation) Rules, 2014 provides as under:

"Rule 25A: Active Company Tagging Identities and Verification (ACTIVE).- (1) Every Company incorporated on or before the 31st December, 2017 shall file the particulars of the Company and its registered office, in e-Form ACTIVE (Active Company Tagging Identities and Verification) on or before 25.04.2019.

Provided that any Company which has not filed its due financial statements under section 137 or due annual returns under section 92 or both with the Registrar shall be restricted from filing e-Form-ACTIVE, unless such Company is under management dispute and the Registrar has recorded the same on the register:

Provided further that companies which have been struck off or are under process of striking off or under liquidation or amalgamated or dissolved as recorded in the register, shall not be required to file e-Form ACTIVE:

Provided also that in case a Company does not intimate the said particulars, the Company shall be marked as "ACTIVE-non-compliant" on or after 26th April, 2019 and shall be liable for action under sub-section (9) of section 12 of the Act: Provided also that no request for recording the following event based information or changes shall be accepted by the Registrar from such companies marked as "ACTIVE-noncompliant", unless "e-Form ACTIVE" is filed

- (i) SH-07 (Change in Authorized Capital);
- (ii) PAS-03 (Change in Paid-up Capital);
- (iii) DIR-12 (Changes in Director except cessation);
- (iv) INC-22 (Change in Registered Office);
- (v) INC-28 (Amalgamation, de-merger)

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7.5 The Committee thus noted that every company incorporated on or before 31st December 2017 is required to file the e-form ACTIVE (which is e-Form 22A) which gives particulars of the Company and its Registered Office. The purpose of such e-Form is to update the KYC of a Company. This Form is required to be filed once only and not every year.

7.6 The Committee further noted that the Respondent as a certifying Professional for INC Form 22A gave the following declaration in the said Form:

*"I have satisfied myself about the identity of the Company and its address based on the perusal of the **original of the attached document.***

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** All required attachments have been completely attached to this application.*

** 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 records** maintained by the Company/applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed."*

- 7.7 The Committee also noted that as per given instruction kit of e Form INC 22A of MCA, the following attachment is mandatory to be filed in all cases:
- a) Photograph of Registered Office showing external building and inside office also showing therein at least one director/KMP who has affixed his/her Digital Signature to this form.
 - b) Optional attachments, if any.
- 7.8 From the above-mentioned requirements, the Committee noted that the certifying professional has to satisfy himself about the address of Company based on original documents. However physical verification of Registered office is not mandatorily required before certifying the INC 22A. Only the photograph of Registered Office showing external building and inside office also showing therein at least one director/KMP who has affixed his/her Digital Signature to this Form is a mandatory attachment.
- 7.9 The Committee further noted that the Respondent brought on record the copy of the email communication dated 11th April 2019 with the Company seeking photographs for Form INC 22A which were provided to him via email on the same date i.e. photographs of the premises along with the rent agreement which were used for certifying Form INC 22A by the Respondent on 12th April 2019.
- 7.10 The Committee also noted the submission of the Respondent that he visited the Registered Office of the Company on number of occasions and also saw the original rent agreement. He also informed that the Registered office was owned by one of a Chartered Accountant known to him.
- 7.11 The Committee noted that the Registered Office of the Company is same as given in the Certificate of Incorporation and in the Master data of the Company on MCA 21 as on date. Further, as per the mandatory requirements of the e-Form- 22A, all the attachments were duly attached.
- 7.12 The Committee also noted that a copy of the duly signed Rent Agreement dated 1st January 2018 between the Company and the lessor which provided for the monthly service fees of Rs. 14,000/- was also brought on record by the Respondent.
- 7.13 Further, the Committee also noted that the physical verification of the Registered Office of the Company was done by the Complainant Department on 29th December 2021 i.e. after a gap of more than two years of filing the e Form INC-22A i.e. 12th April 2019. Thus, the Committee was of the view that the Respondent as a certifying professional cannot be held liable for any subsequent change thereafter. Further, the

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status of the Company is still active as per MCA records having filed the last Balance Sheet till 31st March 2021.

- 7.14 The Committee further noted the following from the letter of Bureau of Immigration dated 22.08.2023 submitted by the Respondent: -

"The Bureau of Immigration head Quarters, New Delhi with reference to the Economic Offence Wing, Mumbai, C.R. No. 56/2022, U/s 406,420,477(A) of IPC r/w 447,448 Company Act 2013 it was stated as under:-

The above mentioned crime has been registered against 1) Youn Dong, 2) Abhimanyu Arya, 3) Ranjan Periwal and is being investigated by Economic Offences Wing, Mumbai.

In order to make presence of the accused person for investigation of said crime, Look Out Notice has raised by this office vide OW No. 1126/DCP/EOW/PE no 160 / 22, Dt. 17/11/2022.

*After due course of investigation, it is revealed that above mentioned accused named **Ranjan Periwal has not any involvement and hence he is not required for further investigation of said crime.***

In view of this, kindly delete the opened L.O.C vide No. 2022426943 of said person." (emphasis provided)

- 7.15 Thus, the Committee noted that the Deputy Commissioner of Police, EOW, Mumbai vide letter dated 22nd August 2023 informed that the Respondent is not involved and is not required for further investigation of the case. The Committee also noted that the subjected Company filed petition under Section 66 of the Companies Act, 2013 for the reduction of share capital of the Company in the NCLT Mumbai, Bench case no C.P.123 (MB)/2022 and vide Order dated 15.04.2024 the case was dismissed due to non-appearance of the petitioner. The Committee also noted that the Company was in the process of winding up and the Respondent was not party to the above referred case.

- 7.16 The Committee also on perusal of the audited financial statements of the Company since incorporation, noted the following particulars: (in Rs.)

Particulars	November 2011 till 31.3.2013	31.3.2014	31.03.2015	31.03.2016	31.03.2017	31.3.2018
Share Capital	45,00,000	45,00,000	45,00,000	45,00,000	45,00,000	45,00,000
Cash and Cash Equivalents - Current Accounts	43,55,515	42,29,675				
FD with original maturity of	-	-	40,80,000	40,40,000	41,40,000	41,60,000

less than 12 months						
Long Term Loans and Advances	-	-	-	-	-	-
Short Term Loans and Advances	-	-	-	-	-	-
Other Income	1,13,841	1,65,672	2,87,056	2,77,463	3,02,843	2,46,203
Misc. Expense	--	--	28,133	2,01,448	2,06,099	1,14,627

7.17 Thus, the Committee noted that the share capital raised by the Company primarily remained with the Company either in the form of balance in current account or in fixed Deposits and was not parked with other entities in the form of loans and advances. The Committee also noted that the Statutory auditor of the Company had given clean Audit report since inception upto the date of certification of INC 22A by the Respondent on 12th April 2019.

7.18 The Committee further noted that the charge levelled against the Respondent in Form I pertains to certification of INC 22A only. There is no charge levelled against him in capacity of statutory auditor neither in Form I nor in the Inquiry Report submitted by ROC.

7.19 The Committee also noted that in the copy of Form INC-22A certified by the Respondent, the details of Latitude being (19.12325) and Longitude being (72.84652) of the registered address of the Company was also provided. The Committee also, noted that another requirement of filing INC-22A i.e., (before filing Active Company Tagging Identities and Verification (ACTIVE) e-form is to ensure that the DINs of all Directors are in 'approved' status and are neither 'De-activated due to non-filing of DIR-3 KYC' nor 'Disqualified u/s 164(2)') which was also ensured by the Respondent in the instant case as DINs of all the directors of the Company were active at the time of certification of Form INC-22A by the Respondent on 12th April 2019 as stated hereunder:

Directors	Appointment date	Cessation Date
Yun Dong	15 Nov, 2011	-
ABHIMANYU MAHENDRAARYA	30 Sep, 2014	-
SHIMING QIAO	15 Nov, 2011	24 Sep 2019
WANG YAOXIN	15 Nov, 2011	17 May 2019

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7.20 The Committee also noted that the Respondent had obtained the photo of Mr. Yun Dong and also verified KYC of him and the same director was one of the directors who authenticated the financial statements of the Company till the date of certification by the Respondent.

7.21 The Committee also on perusal of the Inquiry Report dated 29th November 2022 in respect of the said Company brought on record by the Complainant Department, noted that it pointed out certain other violations of different Sections of the Companies Act 2013 for which it proposed to take action against the Company, Officers in Default and/or its past and present Directors of the Company and did not had any observation against the Respondent as a certifying professional of e-Form INC-22A and/or the Statutory Auditor of the Company for the financial years 2018-2019 to 2020-2021 as stated hereunder:

Violations in Inquiry Report	Actions to be taken proposed against whom	Observations
Violation of Section 448 of Companies Act, 2013	Directors for making false statement	<p>On inspection of the financial statements filed by the Company for FY 2013-14, it is observed that the Company has not attached Notes to Accounts with the Balance Sheet and Profit and Loss Account.</p> <p>For the FY 2018-19, the company has filed the financial statements in E-Form AOC-4 vide SRN H90848698 dated 18.09.2019 and has also not disclosed the Name and DIN of the Directors who are to sign the said report and the said statements are not signed by the Directors.</p> <p>For the FY 2019-20, the company has filed the Director's Report, Balance Sheet and Profit and Loss in E form AOC-4 vide SRN R 92914126 dated 29.1.2021. However, the said Directors' Report, Balance Sheet and Profit and Loss are unsigned. It is further observed that the Company has not attached Notes to Accounts with the Balance Sheet and Profit and Loss Account. Further, the Auditor's Report has not been filed with the financial statements.</p> <p>For FY 2020-21, the Company</p>

		has filed the Director's Report, Balance Sheet and Profit and Loss in E form AOC-4 vide SRN T66300450 dated 23.12.2021. However, the Directors' Report filed is unsigned. Further, the signature of Directors on the financial statements seems to be copy and pasted.								
Violation of Section 166(2) & (3) of Companies Act, 2013	Directors (Present and Past)	The Directors of the Company have not worked in good faith in order to promote the objects of the Company as a whole, and in the best interests of the Company and its shareholders....								
Violation of Section 206(4) of Companies Act, 2013	Company and its Officers in default	... The Company has thus failed to reply to the notice issued to it under Section 206(4) by this Office on 14.2.2022 which leads to violation of said provision...								
Violation of Section 139(1) r/w Section 147 of the Companies Act, 2013	Company and its Officers in default	<p>...On inspection of e-form AOC-4 filed for FY 2015-16, 2016-17 and 2017-18 the financial statements of the Company have been audited by the following auditors respectively:</p> <table border="1"> <thead> <tr> <th>Financial Year</th> <th>Name of Auditor</th> </tr> </thead> <tbody> <tr> <td>2015-16</td> <td>Rakesh Totla</td> </tr> <tr> <td>2016-17</td> <td>Rakeshvimal Chandratotla</td> </tr> <tr> <td>2017-18</td> <td>Rakeshvimal Chandratotla</td> </tr> </tbody> </table> <p>However, in the details of SRN of Form ADT-1 in the said e-form AOC-4 for all three financial years the same SRN i.e. C28219814 has been mentioned which pertains to GNL 2 and not ADT 1.</p>	Financial Year	Name of Auditor	2015-16	Rakesh Totla	2016-17	Rakeshvimal Chandratotla	2017-18	Rakeshvimal Chandratotla
Financial Year	Name of Auditor									
2015-16	Rakesh Totla									
2016-17	Rakeshvimal Chandratotla									
2017-18	Rakeshvimal Chandratotla									
Violation of Section 92 of the Companies Act, 2013	Company and its Officers in default	At the Extra-Ordinary General Meeting of the Company held on 17.3.2019 'M/s Warma Periwal & Association' was appointed as								

		Statutory Auditors for a term of Five years from 1.4.2018 to 31.3.2023. The same was intimated to Registrar of Companies in e-form ADT-1 filed vide SRN H 48780514 dated 29.3.2019. However, on inspection of the e form MGT-7 for FY 2018-19, the disclosure of the above mentioned Extra-Ordinary General Meeting held on 17.3.2019 has not been given under the head 'Meetings of Member held during the year'...
Violation of Section 137 of the Companies Act, 2013	Company and its Officers in default	On inspection of the Financial Statements filed by the Company for FY 2013-14, it is observed that the Company has not attached Notes to Accounts with the Balance Sheet and Profit and Loss Account. For the FY 2015-16, the company has filed unsigned directors Report in E-Form AOC-4 vide SRN G 22688394 dated 18.11.2016 and has not disclosed the Name and DIN of the Directors who are to sign the said Report.
Violation of Section 12 of the Companies Act, 2013	Company and its Officers in default	The Registered Office of the Company at the time of incorporation was situated at 'D-201, Shyamkamal Building, Agarwal Market, Vile Parle East, Mumbai MH 400057 IN'. However, when Spot inspection of the said Registered Office was done on 29.12.2021, it was found that the company is not situated at the said Registered office premises which leads to violation of Section 12 of the Companies Act, 2013.
Violation of Section 210(4) of the Companies Act, 1956 r/w Section 129 of the Companies Act, 2013	Company and its Officers in default	The Company has filed E form 23AC and 23ACA for the Financial Year 2011-13 i.e. 15.11.2011 to 31.3.2013 which amounts to total period of approx. sixteen months which lead to violation of Section 210 (4) of the Companies Act, 1956.

Violation of Section 129 of the Companies Act, 2013	Company and its Officers in default	For the Financial Year 2015-16, the company has filed the unsigned Directors Report in E Form AOC -4 vide SRN G 22688394 dated 18.11.2016 and has not disclosed the Name and DIN of Directors who are to sign the said report.
Violation of Section 158 r/w Section 134 of the Companies Act, 2013	Company and its Officers in default	For the Financial year 2018-19, the company has filed the Financial Statements in E-Form AOC-4 vide SRN H90848698 dated 18.09.2019 and has also not disclosed the Name and DIN of the Directors who are to sign the said Report, and the said statements are not signed by the Directors.

"9. CONCLUSION

The aforesaid inquiry report is conducted in a summary manner to enable expeditious filing of report in the matter. There is no complaint pending against the Company. Since certain attributes of shell company are present in the said company, winding up of the said company is proposed along with other violations of Companies Act, 2013 as mentioned in para 7 for necessary instructions in the matter."

7.22 The Committee, thus, noted that the Respondent not only obtained the photographs required for the purpose of certification of Form INC -22A through email prior to said certification, but also, verified the KYC of the director whose photo had been sent by the Company through email and who was one of the directors who authenticated the financial statements of the said Company at the time of said certification. He also saw the original rent Agreement. The Respondent also ensured that the DINs of all the directors of the Company were active at the time of certification of Form INC-22A by him on 12th April 2019. Also, the details of Latitude being (19.12325) and Longitude being (72.84652) of the registered address of the Company was also provided in the said Form INC -22A. Thus, in view of above observations, the Committee held that the requirements of e-Form INC-22A were duly kept in view by the Respondent at the time of certification of the said e-Form. He had exercised reasonable care and caution to ensure that he was satisfied about the identity of the Company and its address at the time of certification of said Form INC-22A. Accordingly, the Committee held the Respondent **NOT GUILTY** of Professional and 'Other' Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule and Item (7) of Part-I of the Second Schedule to the Chartered Accountants Act, 1949.

7.23 While arriving at its Findings, the Committee also observed that in the background of the instant case the Complainant Department informed that the Company was registered with ROC, Mumbai by engaging dummy persons as subscribers to MOA & Directors by furnishing forged documents with falsified addresses / signatures, Director Identification Number (DIN) to MCA. Further, certain professionals in connivance with such individuals/directors/subscriber to MOA assisted in incorporation and running of these Companies for illegal/suspicious activities in violation of various laws by

certifying e-forms/various reports etc. on MCA portal with false information concealing the real identities of such individuals. However, no evidence of the involvement of the Respondent to that effect had been brought on record by the Complainant Department. The role of the Respondent was limited to certification of Form INC-22A which has been examined by the Committee.

8. CONCLUSION:

8.1 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 7.1 to 7.22 as given above	NOT GUILTY - Item (2) of Part IV of the First Schedule and Item (7) of Part-I of the Second Schedule to the Chartered Accountants Act, 1949

8.2 In view of the above observations, considering the oral and written submissions of the parties and material on record, the Committee held the Respondent **NOT GUILTY** of Professional and Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule and Item (7) of Part-I of the Second Schedule to the Chartered Accountants Act, 1949.

9. ORDER

9.1 Accordingly, in terms of Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee passes Order for closure of this case against the Respondent.

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

Sd/-
(MRS. RANI S. NAIR, IRS {Retd.})
GOVERNMENT NOMINEE

Sd/-
(SHRI ARUN KUMAR, IAS {Retd.})
GOVERNMENT NOMINEE

Sd/-
(CA. COTHA S SRINIVAS)
MEMBER

DATE: 11th February 2025
PLACE: New Delhi

प्रमाणित सत्य प्रतिलिपि / Certified true copy

(Signature)

सीए अंशुल कुमार / CA. Anshul Kumar
सहायक निदेशक / Assistant Director
अनुशासनात्मक निदेशालय / Disciplinary Directorate
भारतीय सनदी लेखाकार संस्थान
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