

BOARD OF DISCIPLINE

(Constituted under Section 21A of the Chartered Accountants Act 1949)

Findings under Rule 14 (9) read with Rule 15 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

CORAM (PRESENT IN PERSON):

CA. Rajendra Kumar P, Presiding Officer
Smt. Dolly Chakrabarty, IAAS (Retd), Government Nominee
CA. Priti Savla, Member

IN THE MATTER OF:

CA. Gautam Doshi (M. No. 016993) in Re.

Reliance Centre, 3rd Floor
19, Walchand Hirachand Marg
Ballard Estate, Mumbai.....

Respondent

Date & Place of Final Hearing : 18th January 2025, ICAI Bhawan, Mumbai
Date of Pronouncement of Judgment : 28th January 2025

PARTY PRESENT (IN PERSON) : CA. Gautam Doshi – Respondent

FINDINGS:

BACKGROUND OF THE CASE:

1. An attention has been invited to the press release(s) by the Central Bureau of Investigation (CBI) dated 2nd April 2011 and 25th April 2011 and news items under different headings published in 'The Times of India' dated 3rd April 2011, 21st April 2011, 10th May 2011 and 24th May 2011 containing allegations against CA. Gautam Doshi (hereinafter referred to as the Respondent).
2. As per the information letter dated 25th May, 2011 read with chargesheet filed, press release/(s) and news items, the allegations, in brief, are that the Respondent, Group President of Reliance ADA Group and Director / Board member of M/s. Reliance Telecom Ltd., along with others has played an active role in structuring and funding of M/s. Swan Telecom Pvt. Ltd. (hereinafter referred to as STPL), M/s. Tiger Traders Pvt. Ltd. (hereinafter referred to as TTPL) and other Companies in such a fashion so as to show that these were eligible to apply for UAS licenses. Further, all important decisions regarding transfer of funds to TTPL/STPL through various Companies, commercial

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decisions on behalf of M/s. Reliance Telecom Ltd. including investment in STPL, transfer of shares to M/s. Delphi Investment Ltd. etc. have also been taken by him.

CHARGES ALLEGED:

3. The Respondent, Group President of Reliance ADA Group and Director/Board member of M/s Reliance Telecom Ltd., along with others has played an active role in structuring and funding of M/s STPL, M/s TTPL and other companies in such a fashion so as to show that these were eligible to apply for UAS Licenses. Further, all important decisions regarding transfer of funds to TTPL/STPL through various companies, commercial decisions on behalf of M/s Reliance Telecom Ltd. including investment in STPL, transfer of shares to M/s Delphi Investment Ltd., etc. have also been taken by him.

BRIEF OF PROCEEDINGS:

4. The details of the hearings fixed and held in the said matter, are given as under:

S. No.	Date of Hearing(s)	Status of Hearing(s)
1.	22 nd May 2018	Matter was adjourned at the request of the Respondent
2.	29 th March 2023	Part-Heard and Adjourned
3.	18 th January 2025	The matter heard & concluded, and Judgment was reserved.
4.	28 th January 2025	The Board pronounced the Judgment in the matter.

BRIEF SUBMISSIONS OF THE RESPONDENT:

5. The Respondent submitted that he is neither related in any way to STPL or Unitech nor directly or indirectly concerned with the grant of licenses by the telecom minister or by any other minister or allocation of spectrum to these two companies or to any other companies. The Respondent further submitted that the CBI in its charge sheet itself accepts that STPL did not violate the 10% ceiling to apply for UAS licenses to operate telecom services including setting up a mobile network. The observation of CBI as contained in the Charge-sheet is given as under:

"Investigation has disclosed that M/s Reliance Telecom Ltd., which is a subsidiary of M/s Reliance Communication Ltd. has invested in STPL in form of minority equity stake and preference shares. However, the investment towards equity shares of STPL was within permissible limits i.e. less than 10%."

6. The Respondent further submitted that the said Charge-sheet categorically accepts that at the time when LOI and the license were given to STPL, it was a company owned and controlled by Mr. Shahid Balwa and Mr. Vinod Goenka of DB Group and, therefore, RTL had no interest in STPL, and it is not even the allegation or charge that RTL had any such interest. Furthermore, he has also no interest in STPL at any stage and he was neither a shareholder or Director nor in any other way associated with STPL.

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7. The Respondent further submitted that it has been alleged that he has participated in the creation of a structure whereby the association between RTL and STPL may not be detected. In his defense the Respondent has stated that he has no role, and no role is attributed on him of any nature in STPL. The evidence indicates that he had no role either in the structuring of STPL, or in creation of its net worth or its transfer. While the aspect of restructuring is generally mentioned in the charge sheet the specific charge against him is limited to the alleged transfer to STPL. It is not the case of CBI that transfer of applicant companies who had applied for UAS licenses was not permitted. The fact of the Reliance Group having no further interest in STPL, was intimated to DOT and it is not the case of CBI that this information was not given to or was not considered by DOT. Therefore, without prejudice to the fact that he had no association with STPL or with Mr. Shahid Balwa and Mr. Vinod Goenka and was not involved whatsoever in the alleged transfer of STPL. Therefore, the charge against him is unjustified.
8. Further the Respondent submits that without prejudice to the fact that the allegations contained in the charge sheet are both wrong and without any basis, attention has been drawn to the fact that the charge sheet does not allege any transaction which is stated to be carried out by him as a Chartered Accountant. The acts alleged are clearly, acts which would be carried out by some concerned Executive or Executives of the Reliance Group and are not acts which require to be carried out by a Chartered Accountant. All such acts on the face of it are neither unethical nor illegal or immoral.
9. The Respondent submits that it is also evident that no evidence has been adduced in the ongoing trial suggesting that the alleged acts have, in fact, been performed by him and he has been wrongly implicated as he has not performed any of the alleged acts, therefore, Clause (2) of Part-IV of the First Schedule of the Chartered Accountants Act, 1949 has no application in his case.
10. The Respondent in compliance with the directions of the Board has also submitted the requisite documents with the following submissions: -

"In relation to the 2G matter the allegation against me (Gautam Doshi - Respondent) related only to the investment by the Reliance ADA Group (RADAG) in Swan Telecom Private Limited (STPL), a company which had filed an application for 2G licenses (using GSM technology) for certain telecom circles. The allegation is that the Respondent was responsible for structuring STPL in a manner that ensured its eligibility, even though it was in reality an associate of Reliance Communications Limited, a company which already had telecom licenses in those circles.

The Hon'ble Court of Shri O. P. Saini, Spl. Judge, CBI (04) (2G Spectrum Cases), New Delhi in CC No. 01/11, dated 21st December 2017 has dealt with this aspect of the matter under Part IV of his Order, which is titled as follows.

"Issue relating to Eligibility of STPL and Unitech Group Companies: Role of A. Raja, Siddhartha Behura, Shahid Balwa, Vinod Goenka, Sanjay Chandra, Gautam Doshi, Surendra Pipara and Hari Nair"

In respect of this part, the Hon'ble Judge has identified various issues and arrived at conclusions on those issues based on which the Hon'ble Judge has concluded that on the

date of application, STPL was not an associate of Reliance Communications Limited, in as much as on that date STPL was already transferred to and owned by the DB Group. The Hon'ble Judge has also made other observations, including observations to the effect that the provisions of clause 8 of the telecom guidelines were vague and adopting a view as to what the guidelines meant could not amount to a criminal offence. The Hon'ble Judge has therefore concluded that there was no illegality in the application by STPL.

11. The Respondent submitted that the issues identified by the Hon'ble Judge and his observations on each of those issues are summarized in the following extracts from the Order of the said Court as under: -

S. No.	Issues and Description	Observation and conclusion
1	<p>(para 1291) <i>The issue is: Whether the two companies were ineligible on the date of filing of applications and if so, whether their inability was ignored due to conspiracy?</i></p> <p><u>Filing of Application by STPL for UAS Licenses: Role of Sh. Anand Bhatt</u></p> <p>(para 1292) <i>It is the case of the prosecution that STPL belonged to Reliance ADA group, an existing licensee, on the date of application, that is, on 02.03.2007. RCL, a company of Reliance ADA Group, was operating on CDMA standard. It is also the case of the prosecution that STPL filed applications in thirteen service areas where Reliance ADAG/RCL had no GSM spectrum, so that it can avail the facility of GSM spectrum also without any permission from DoT. It is the case of the prosecution that STPL belonged to Reliance ADA group and, as such, it was in violation of clause 8 of UAS Guidelines. It is also the case of the prosecution that applications were filed by PW 2 Shri A. N. Sethuraman, an employee of Reliance ADA group.</i></p>	<p>(Para 1294) <i>Thus, from the above deposition of PW 2 Sh. A. N. Sethuraman, both in examination-in-chief as well as cross-examination, it is clear that he had signed and filed the applications on the asking of Sh. Anand Bhatt. The case of the defence is that by that time the company stood transferred to him (Anand Bhatt). The prosecution did not challenge this version of the witness, either by re-examination or by way of cross-examination. Thus, the role of Sh. Anand Bhatt stands established in examination-in-chief of prosecution witness itself and has also gone unchallenged. Though the witness deposed that he had filed the applications on the asking of Sh. Anand Bhatt, but question still remains as to who owned STPL on the date of applications?</i></p>
2	<p><u>Who Owned STPL on the Date of Applications?</u> (Para 1295)</p>	<p>(Para 1311) <i>This witness categorically deposed that Sh. Anand Bhatt, with the involvement of Sh. Ashok Wadhwa, was desirous of setting up a telecom</i></p>

<p><i>The core issue in the case is as to who owned STPL on the date of applications? How was the company incorporated? If the company was incorporated by Reliance ADA group, whether the company stood transferred from the Reliance group to DB group on the date of filing of applications? It is the case of the prosecution that on 02.03.2007, when the applications for thirteen service areas were filed by STPL, it was an "Associate" company of Reliance Communications Limited (RCL)/ Reliance Telecom Limited (RTL). It is the case of the prosecution that since these companies, that is, RCL and RTL, were already operating telecom licenses in the thirteen service areas, STPL was not eligible to apply for fresh UAS licenses, being an "Associate" of the aforesaid two companies. It is the case of the prosecution that as per clause 8 of Guidelines for Unified Access Service Licence dated 14.12.2005, an "Associate" company of an existing licensee could not apply for another Licence in the same service area. Hence, STPL was ineligible on the date of applications, that is, on 02.03.2007. It is the case of the prosecution that not only this, accused Hari Nair misrepresented to the DoT that Tiger Traders (P) Limited (TTPL), which owns 90.1% equity in STPL, was owned by Indian Telecom Infrastructure Fund, held by Ashok Wadhwa Group of companies. It is the case of the prosecution that this was a false representation as the company was held by Reliance ADA group and was also funded by it. Hence, STPL was ineligible on the date of applications.</i></p> <p>(Para 1297)</p>	<p><i>company and accordingly, he acquired STPL. His version is that in this telecom company, Reliance ADA group was to have minority investment and also an employee director and this was done to secure tower business for Reliance ADA company. This version of the witness was not challenged by the prosecution, either in re-examination or cross-examination.</i></p> <p>(Para 1312) <i>This witness deposed the role of Sh. Ashok Wadhwa and Sh. Anand Bhatt in STPL. He also deposed that Sh. Ashok Wadhwa could not arrange funding and STPL was taken over by promoters of DB Realty Limited in the first quarter of 2007. He also deposed that in February 2007 itself, DB Realty group had approached him for promoter funding in STPL to the tune of Rs. 100 crores. The witness also deposed on some very crucial points touching the merit of the case, but the prosecution did not challenge this version.</i></p> <p>(Para 1328) <i>The perusal of the evidence of Sh. Hasit Shukla shows that STPL and Tiger Traders (P) Limited were taken over by Sh. Ashok Wadhwa and Sh. Anand Bhatt and the companies were in control of DB group with effect from 02.03.2007. It is more so when the prosecution did not challenge the genuineness of the minutes produced before the Court. The evidence went unchallenged by the prosecution, and it is now bound by it. It cannot be demolished by arguments across the bar.</i></p> <p>(Para 1348) <i>In the end, I find that there is enough evidence on record to believe that STPL was under the ownership, management and control of DB group by 03.03.2007. This is clear from the examination-in-chief as well as the cross-examination of various witnesses referred to above in detail.</i></p>
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The question is: Whether STPL was eligible on the date of applications? Whether there was any Fund established to own Tiger Traders (P) Limited and STPL, if so, by whom? What was the role of Sh. Anand Bhatt and Sh. Ashok Wadhwa in this? Whether STPL belonged to Reliance ADA group on the date of applications?

Reason for Ineligibility: STPL belonged to Reliance ADA Group?

(Para 1298)

It is the case of the prosecution that STPL was a company of Reliance ADA group, which was already having pan India Licence for access services.

(Para 1300)

Hence, it is the case of the prosecution that since RCL was operating on CDMA technology, it used STPL, which was its group company, for filing applications for fresh UAS licenses, so that it may get GSM technology also

It is the case of the prosecution that since STPL was a company of Reliance ADA group, it was ineligible to apply for fresh licenses. This issue is at the root of the whole controversy in the instant case.

Incorporation of STPL and its Ownership on the date of Applications: Role of Sh. Anand Bhatt and Sh. Ashok Wadhwa

Shareholder's Agreement dated 03.03.2007

[Defence: (Para 1296)

On the other hand, the case of the defence is that the company (STPL) already stood transferred from Reliance ADA group to Sh.

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	<p><i>Nilesh Doshi and Sh. Sunil Doshi and from them to Sh. Anand Bhatt and Sh. Ashok Wadhwa and from them to DB group on 02.03.2007, the date when the applications were filed. On that day, it was a DB group company and RTL held only a minority shareholding in this company, limited to 9.9% only and, as such, the company was fully eligible to apply for fresh licenses.</i></p> <p>(Para 1349) <i>It is also submitted by the defence that STPL stood transferred to DB group by 03.03.2007 and my attention has been invited to a shareholder's agreement dated 03.03.2007, Ex PW 1/DA.]</i></p>	
3	<p><u><i>Transfer of STPL on 18.10.2007: Whether Consistent with Developments in DoT File D-5</i></u></p> <p>(Para 1367) <i>The case of the prosecution is that on receipt of TRAI Recommendations dated 28.08.2007, when RCL got GSM spectrum under dual technology policy, Sh. Gautam Doshi, Sh. Hari Nair and Sh. Surendra Pipara transferred the control of STPL and structure of its holding companies to Sh. Shahid Balwa and Sh. Vinod Goenka. It is the case of the prosecution that this way they transferred a company which was ineligible for grant of UAS Licence on the date of applications to Dynamix Balwa Group and facilitated the accused persons to cheat DoT in getting the Licence, despite the company being ineligible on the date of application. The crux of the argument is that this company was transferred when RCL got in-principal approval for dual technology spectrum in</i></p>	<p>(Para 1370) <i>These facts thus falsify the prosecution case that STPL was transferred to DB group after RCL got in-principal approval for dual technology on 18.10.2007.</i></p>

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	<p>thirteen service areas. The case of the prosecution is that the net worth of STPL was structured/ created in such a manner that its association with RTL might not be detected by the DoT, so that it might not reject the application for being in violation of clause 8 of UASL Guidelines, though the entire company was held by Reliance ADA group. It is the case of the prosecution that Reliance Group transferred STPL to DB Group on getting in-principal approval for dual technology on 18.10.2007.</p>	
4	<p><u>Funding STPL by Reliance ADA Group</u> (Para 1371) It is the case of the prosecution that STPL was fully funded by Reliance ADA group out of the funds drawn from various companies of the group to make out its equity and net worth and this was mainly done by Sh. Gautam Doshi in conspiracy with Sh. Surendra Pipara and Sh. Hari Nair. My attention has been invited to the deposition of various witnesses and large numbers of fund transfer documents like cheques, RTGS receipts, invoices etc.</p> <p>(Para 1384) Thus, RTL had invested an amount of Rs. 1000 crore and above in STPL. The question is: Who invested it and why was it invested? Whether the investment was permissible under Guidelines?</p> <p>[Defence: On the contrary, defence has disputed it submitting that the equity subscription by the Reliance ADA group was within permissible limits and its other investments were for purposes which were fully permissible.]</p>	<p>(Para 1376) Accordingly, I find the deposition of PW 2 Sh. A. N. Sethuraman to be legally acceptable when he deposed that except crossholding by way of equity shares, there is no bar on other types of funding by instruments like preference shares, debentures etc. These are various categories of investments. Investment only in one category is prohibited beyond 10% or more, that is, equity capital. Categorization and segregation of investment into various instruments must have been in the knowledge of the policy makers. However, they put restrictions only on equity investment and not on investment by means of debt instruments. This is a reasonable view which can be taken by anyone after reading the guidelines.</p> <p>(Para 1389) If this clause (Clause 5A) is read carefully, it reveals that it mentions investment by means of various financial instruments and by several layers of companies. In contrast to this, clause 8 mentions only equity investment. Thus, clause 8 only prohibits equity investment by one licensee company into another licensee company and no other investment by means of other financial instruments like debt instruments, preference shares etc. The policy maker is expected to have known all these nuances when these Guidelines were framed. They were expected to know the provisions of the Companies Act relating to the issue of shares and debentures. They could have very well prohibited investment by debt instruments also, but it was not done. Perusal of file Ex PW 60/DF reveals that when clause 8 was</p>

		<p><i>framed extensive consultations took place in DoT. Not only this, ICICI Bank, SBI Caps, TCIL, Law department etc., were consulted. What does this indicate? It indicates that crossholding of debt was deliberately not included within the scope of clause 8. So, if one licensee company makes investment in another licensee company by means of debt instruments, it cannot be said that there is violation of clause 8. Excessive borrowings/ funding may lead to a perception of wrongdoing. It may not be to the liking of certain quarters. However, it is not prohibited by law and, as such, there is no illegality in crossholding of debt.</i></p> <p>(Para 1392) <i>In the end, I find that the funding of STPL by Reliance was within permissible limits. The prosecution case is that quick transfer of money indicates that it was aimed at creating net worth of STPL. By way of arguments at the bar, it endeavored hard to prove so. But in the absence of evidence, plain arguments at the bar are not of much consequence. Prosecution should have led evidence on this point. Further, if there was violation of clause 8 by way of excessive funding through preference shares or debt funding, the appropriate way for DoT was to amend its Guidelines. As per clause (v) of the Licence agreement, DoT is also fully empowered to amend the Licence agreement in public interest. In such a situation, DoT suddenly cannot turn around and say that there has been violation of clause 8 by excessive debt funding. As the clause stands at the moment, there can be no violation of it by way of debt funding.</i></p>
<p>5</p>	<p><u>Leasing of Passive Infrastructure</u> (Para 1390)</p> <p><i>Passive infrastructure was to be leased by RCL to STPL and for that a notification of award Ex PW 130/A was issued by STPL. The case of the prosecution is that NOA, Ex PW 130/A (D-449), was just a pretext to repay the money to RCL, which was paid by it to STPL, just to create its net worth.</i></p>	<p>(Para 1390)</p> <p><i>As such, there is no evidence at all that this is a fake document created by Sh. Gautam Doshi. In such a situation, how can prosecution argue that this document was used as a ruse to return the money by STPL to RCL on the pretext of providing passive infrastructure.</i></p>
<p>6</p>	<p><u>Whether STPL was an "Associate" of RCL/ RTL?</u> (Para 1393)</p>	<p>(Para 1419)</p>

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It is the case of the prosecution that STPL, on the date it filed applications for thirteen UAS licenses, that is, on 02.03.2007, was an "Associate" of Reliance ADA group/ Reliance Communications Limited/ Reliance Telecom Limited. The case is that RCL already have UAS licenses in all the thirteen service areas in which STPL had applied. It is the case of the prosecution that TTPL, which was holding majority stake, that is, more than 90% in STPL, was also an "Associate" of Reliance ADA group. It is the case of the prosecution that day-to-day affairs of STPL and TTPL were being managed by the officials of Reliance ADA group, which included Sh. Hari Nair, Sh. Gautam Doshi and Sh. Surendra Pipara. The commercial decisions of the two companies were also being taken by the same officers. It is also the case of prosecution that all inter-company transactions were also conducted by the same persons. It is the case of the prosecution that once STPL was an "Associate" of RCL/ RTL, it was not eligible to apply for UAS licenses.

Meaning of "Associate" and its Interpretation

[Defence: (Para 1394)

On the other hand, defence argued that STPL was an independent company, controlled by DB group on the date of filing of applications, that is, on 02.03.2007. It is also the case of the defence that there is no definite meaning of word "Associate". It is also the case of the defence that no one knows as to when and at which stage a company would be deemed to be an "Associate" of another. It

The end result is that this term has no definite meaning, and I have no desire to define and interpret it as submitted by learned Spl. PP. He submitted that interpretation is the job of the Court. That is true. However, in this case, the only question is: Whether the view taken by the accused or others relating to meaning and applicability of clause 8 is reasonable one or not? Whether any prudent person would take such a view of clause 8 as has been taken by accused? The answer to this question is that the view taken by the accused was reasonable one as it only restricts equity investment beyond 10% or more and nothing else. People cannot be held guilty for violating a rule which has no definite meaning and suffers from the vice of vagueness. It must be kept in mind that clarity and certainty are essential attributes of law, which include rules and Guidelines also. To give a definite meaning by interpretation of such a vague clause and to hold the accused guilty for its violation would not be fair. The conclusion of above discussion is that it cannot be said that STPL violated clause 8 for being an "Associate" of RCL, an existing licensee.

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	<i>is the case of the defence that in such an uncertain situation, how can people be held responsible and criminally prosecuted for its violation?]</i>	
7	<p><u>Time of Application of Clause 8</u> (Para 1420) It is the case of the prosecution that clause 8 is applicable on the date of application itself and a company should be compliant with clause 8 on this date itself. It is the case of the prosecution that STPL was not compliant with this clause on the date of application. Hence, it was ineligible on the very first date.</p> <p><i>[Defence: On the other hand, defence argued that DoT does not know as to when clause 8 would become applicable and in the past subsequent compliance was also considered to be good enough. Not only this, but compliance till the last correspondence was also taken to be good. It is the case of defence that application of clause 8 was to be seen on the date of signing of Licence agreement.]</i></p>	<p>(Para 1434) Accordingly, I find merit in the submission of the prosecution that application of clause 8 ought to have been seen on the date of application itself. However, if the department itself was liberal and was giving opportunity to the ineligible applicants to acquire eligibility by taking necessary steps, then applicants cannot be held responsible for that. DoT cannot take a sudden about-turn and blame the applicant. In such an uncertain situation criminal prosecution is totally unfair and unjustified.</p> <p>(Para 1482) Even otherwise, clause 8 is aimed at preventing monopolies. A company can always divest its equity and become compliant with the clause any time after filing of the application also. As already noted above, the DoT was quite indulgent about the deficiencies in the applications. Once the equity of Reliance was divested, STPL became compliant.</p>
8	<p><u>Whether STPL was declared Eligible by Sh. Siddhartha Behura as a Result of Conspiracy</u></p> <p>(Para 1479) What is the case of prosecution? The case is that TTPL and STPL were Reliance companies on the date of applications and that TTPL did not supply the details of its promoters as on date of application and this issue was ignored by Sh. Siddhartha Behura and Sh. A. Raja in conspiracy with Sh. Shahid Balwa and other accused.</p>	<p>(Para 1481) In view of the above detailed discussion, I do not find any merit in the submission of the prosecution that Sh. Siddhartha Behura declared STPL eligible as he was in conspiracy with other accused.</p>
9	<p><u>Why did STPL file Applications for UAS Licenses?</u></p> <p>(Para 1483) It is the case of the prosecution that both STPL and TTPL, which</p>	<p>(Para 1485) Now the question is: Whether there is any evidence on record in support of the case of the prosecution that the applications were filed in thirteen service areas by STPL just to secure GSM</p>

	<p>was holding 90.1% equity in STPL, belonged to Reliance ADA Group. It is the case of the prosecution that both the companies were "Associate" of Reliance Communications Limited/ RTL, which were already having UAS licences in all telecom circles. It is the case of the prosecution that RCL operated on CDMA technology in thirteen service areas. It is further the case of the prosecution that these two companies, that is, STPL and TTPL, had no business history. It is further the case of the prosecution that in order to indirectly acquire GSM technology, RCL activated these two companies for the purpose of applying for UAS licences in thirteen service areas, where it had no GSM spectrum, though the company had already applied for dual technology permission. It is the case of the prosecution that STPL was used by Reliance Group for filing applications for UAS licenses in thirteen service areas to acquire GSM spectrum where RCL was operating on CDMA technology. It is the case of the prosecution that this was done under a strategy to acquire dual technology by indirect means, without being seen to be in violation of Clause 8 of UASL Guidelines.</p> <p>(Para 1484) [Defence: Defence has disputed it submitting that the companies belonged to DB Group on the date of applications. It is the case of defence that there is no evidence in support of contention of prosecution.]</p>	<p>spectrum for Reliance group companies, that is, RCL? Whether this argument is based on some evidence or is pure speculation?</p> <p>(Para 1488) There is no evidence in support of the prosecution version and the submission is purely speculative and conjectural. On the other hand, the defence version appears to be reasonable one for the reason that Reliance ADA Group had already applied for alternative technology and the investment made was well within the permissible limits for enhancement of tower limits. It is a known fact that tower sharing minimizes duplication of investment, economizes the cost of operations and maintenance leading to profitability. A question keeps wafting in mind as to why would Reliance ADA group activate a company for acquiring dual technology for the acquisition of which it had already filed an application? Prosecution has no answer on the basis of evidence on record. In the end, considering the material on record, I do not find any merit in the version of the prosecution that the company was activated by Reliance ADA Group to secure GSM spectrum in thirteen service areas where it was operating on CDMA standard.</p>
<p>10</p>	<p><u>Lifting the Corporate Veil</u> (Para 1489) It is the case of the prosecution that STPL was, in fact, a</p>	<p>(Para 1495) Thus, the perusal of the law extracted above in detail reveals that whether corporate veil is to be lifted or not to be lifted depends upon the</p>

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<p><i>company of Reliance ADA group and it was owned and controlled by this group. It is the case of the prosecution that in order to obtain GSM spectrum. It is the case of the prosecution that corporate veil is required to be lifted in order to find out as to who was actually behind STPL in filing the applications.</i></p>	<p><i>evidence led on record. In the instant case, evidence has already been extracted in detail. There is no evidence on the record that on the date of filing of applications STPL belonged to Reliance ADA group. Rather the evidence is to the effect that DB group was in control of the company on the date of filing of applications. Hence, there is no merit in the submission of the prosecution that in the instant case corporate veil is required to be lifted to determine the real force behind STPL on the date of filing of applications.</i></p>
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OBSERVATIONS OF THE BOARD:

- 12.** The Board observed that in compliance with the directions of the Board given on 18th January 2025, the Respondent has sent his submissions which have been taken on record by the Board.
- 13.** The Board also observed that as per the Respondent, he has been acquitted by the Special CBI Court. While going through the submissions made by the Respondent, the Board observed that as regards the Respondent is concerned, the Trial Court has observed that there is enough evidence on record to believe that STPL was under the ownership, management and control of the D B Group by 3rd March 2007 and it is clear from the Examination-in-Chief as well as Cross-Examination of various witnesses in the matter. It has also been observed that STPL already stood transferred from Reliance ADA Group to Shri Nilesh Doshi and Shri Sunil Doshi firstly and from them to Shri Anand Bhatt and Shri Ashok Wadhwa secondly and then to D B Group on 2nd March 2007 finally, the date when the applications were filed. On that day, D B Group Company and RTL held only a minority shareholding in STPL, limited to 9.9% only and, as such, the company was fully eligible to apply for fresh licences. Accordingly, the Board observed that the Trial Court has rightly held that the STPL stood transferred to D B Group by 03rd March 2007.
- 14.** As regards the funding of STPL by Reliance ADA Group is concerned, the Board observed that on the basis of large number of fund transfer documents like cheques, RTGS receipts, invoices, etc. trial court has rightly stated that when Mr. Sethuraman has deposed that except crossholding by way of equity shares, there is no bar on other type of funding by instruments like preference shares, debentures, etc. The investments are only in one category is prohibited which is beyond 10% or more i.e. equity capital. Categorization and segregation of investment into various instruments must have been in the knowledge of the policy makers. However, they put restrictions only on equity investment and not on investment by means of debt instruments. Be that as it may be, Clause 8 mentions only equity investment by one licensee company into another licensee company and no other investment by means of other financial instruments like debt instruments, preference shares, etc and the policy maker is expected to have known all these nuances when these guidelines were framed. The Board, therefore, observed that the Trial Court has rightly came to finding that the funding of STPL by Reliance was within permissible limits and as the clause 8 stands at that moment, there can be no violation of it by way of debt funding.

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15. The Board further noted that the Trial Court did not find any merit in the submission of the prosecution that Shri Siddharth Behura declared STPL eligible as he was in conspiracy with other accused. As regards the application filed by STPL for UAS licences, the issue was whether there was any evidence on record in support of the case of the prosecution that the applications were filed in thirteen service areas by STPL just to secure GSM Spectrum for Reliance Group companies, i.e. RCL? The Board noted the observation of the Trial Court that there is no evidence in support of the prosecution version and the submission is purely speculative and conjectural and considering the material on record, the Trial Court do not find any merit in the version of the prosecution that the company was activated by Reliance ADA Group to secure GSM Spectrum in thirteen services where it was operating on CDMA standard.
16. The Board discern that based on the material on record, D B Group was in control of the company on the date of filing of applications. Besides this, the Board noted that after perusal of the said Order passed in the Court of Hon'ble Shri O. P. Saini, Spl. Judge, CBI (04) (2G Spectrum Cases), New Delhi in CC No. 01/11, dated 21st December 2017, while concluding the matter, the Court recorded as under:

"x

x

x

1817. There is no evidence on the record produced before the Court indicating any criminality in the acts allegedly committed by the accused persons relating to fixation of cut-off date, manipulation of first-come-first-served policy, allocation of spectrum to dual technology applicants, ignoring ineligibility of STPL and Unitech group companies, non-revision of entry fee and transfer of Rs. 200 crores to Kalaingar TV (P) Limited as illegal gratification. The charge-sheet of the instant case is based mainly on misreading, selective reading, non-reading and out of context reading of the official record. Further, it is based on some oral statements made by the witnesses during investigation, which the witnesses have not owned up in the witness-box. Lastly, if statements were made orally by the witnesses, the same were contrary to the official record and thus, not acceptable in law.

1818. I may add that many facts recorded in the charge sheet are factually incorrect, Finance Secretary strongly recommending revision of entry fees, deletion of a clause of draft LOI by Sh. A. Raja, Recommendation of TRAI for revision of entry fee, etc.

The end result of the above discussion is that I have absolutely no hesitation in holding that the prosecution has miserably failed to prove any charge against any of the accused, made in its well-choreographed charge sheet.

1819. Accordingly, all accused are entitled to be acquitted and are acquitted."

17. The Board observed that the above observations of the Special Court, clearly indicates that there is lack of evidence, *inter alia*, against the Respondent and that the charge-sheet as produced by the CBI in the Court is mainly based on misreading, selective reading, non-reading and out of context reading of the official records which is not accepted by the Court as many facts recorded in the charge-sheet are factually incorrect about the recommending revisions of entry fee, deletion of a clause in draft LOI by Shri A. Raja and

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recommendation of TRAI for revision of entry fee etc. Accordingly, the Board noted that the conclusion as arrived at by the Special Court asserting that, ".....***I have no hesitation in holding that the prosecution has miserably failed to prove any charge against any of the accused...***". Therefore, the Board noted that the Special Court has acquitted all the accused including the Respondent in the matter.

- 18.** Thus, on a detailed perusal of the submissions and documents on record along with the primary evidence which the Respondent has brought on record for the charges alleged against him, the copy of the Order of the Special CBI Court, the Board contemplated that the Respondent has substantially proved his defense on the charge that he has played an active role in structuring and funding of M/s STPL, M/s TTPL and other companies in such a fashion so as to show that these were eligible to apply for UAS Licenses. In view of the same, the Board, after considering all relevant facts and documents on record, has decided to hold the Respondent **Not Guilty** in respect of the charge alleged.

CONCLUSION:

- 19.** Thus, keeping in view the facts and circumstances of the matter, the submissions of the Respondent and documents on record, the Board is of the considered view that the Respondent is **Not Guilty** of Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act. Accordingly, the Board passed an Order for closure of the case in terms of the provisions of Rule 15 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

Sd/-
CA. Rajendra Kumar P
Presiding Officer

Sd/-
Dolly Chakrabarty, IAAS (Retd.)
Government Nominee

Sd/-
CA. Priti Savla
Member

Date: 10-02-2025

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, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032