

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2025-2026)]

[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

Ref. No.: PR/G/183/2024/DD/190/2024/DC/1921/2024

In the matter of:

Sh. Sanjay Sood,
ROC, Bengaluru,
Ministry of Corporate Affairs
Kendriya Sadan, 2nd Floor,
E- Wing, Koramangala
Bengaluru – 560 034

.....Complainant

Versus

CA. Shruti Agarwal (M. No. 301768)
305, Geetanjali Icon 65
Naguarapalya Main Road
C V Raman Nagar
Bengaluru – 560 093

.....Respondent

MEMBERS PRESENT:

CA. Charanjot Singh Nanda, Presiding Officer
Shri Jiresh Nandan, Member (Govt. Nominee)
Dr. K Rajeswara Rao, Member (Govt. Nominee)
CA. Piyush S Chhajed, Member
CA. Abhay Chhajed, Member

Date of Final Hearing: 8th September 2025

By [Signature]

PARTIES PRESENT:

Respondent - CA. Shruti Agarwal (M. No. 301768) (through Video Conferencing)

Counsel for the Respondent - CA. Raj Singhanla (through Video Conferencing)

Authorized Representative of the Complainant- Shri Venkataraman K, Assistant ROC (through Video Conferencing)

[all appeared through Video Conferencing from their respective personal location(s)]

1. BACKGROUND OF THE CASE:

- 1.1 The extant complaint was filed by Registrar of Companies, Karnataka against CA. Shruti Agarwal (hereinafter referred as the 'Respondent').
- 1.2 It is stated that the Respondent had certified e-form 'DIR-12' (Particulars of Appointment of Directors and Key Managerial Personnel and the changes among them) for appointment of Mr. Shu Kin IP, a Chinese national, as director of M/s Mach 1 Global Supply Chain Services India Private Limited (hereinafter referred to as the "Company").
- 1.3 Accordingly, as per the Complainant, since the director is a Chinese National, and China is a country sharing land border with India; hence the Respondent is alleged to have certified the e-form 'DIR-12' relating to appointment of said director without ensuring adherence of compliance of attaching security clearance from the Ministry of Home Affairs (MHA), Govt. of India as required under Section 152 of the Companies Act, 2013 read with Rule 8 of the Companies (Appointment and Qualification of Directors) Rules, 2014.

2. CHARGE IN BRIEF:

S.No.	Charge(s)	Prima Facie Opinion of the Director (Discipline)	Applicable Item of the Schedule to the Chartered Accountants Act 1949
1.	The Respondent certified Form DIR-12 for appointing a	Guilty	Item (7) of Part-I of the Second Schedule

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	Chinese national as director without attaching the mandatory MHA Security Clearance, as required by Rule 8 (amended 01.06.2022) and failed to inform the appropriate enforcement agency of this omission.		
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3. THE RELEVANT ISSUES DISCUSSED IN THE PRIMA FACIE OPINION DATED 22nd AUGUST 2024 FORMULATED BY THE DIRECTOR (DISCIPLINE) IN THE MATTER IN BRIEF, ARE GIVEN BELOW: -

- 3.1 With respect to charge that the Respondent certified Form DIR-12 for appointing a Chinese national as director without attaching the mandatory MHA Security Clearance, as required by Rule 8 (amended 01.06.2022) and failed to inform the appropriate enforcement agency of this omission, the Director (Discipline) noted that Mr. Shu Kin IP, a Chinese national, was appointed as a director of a company with effect from 23.08.2022 and accordingly, submitted Form DIR-2 along with his appointment, declaring that he was not required to obtain security clearance from the Ministry of Home Affairs, Government of India.
- 3.2 It is noted that as per Rule 8 of the Companies (Appointment and Qualification of Directors) Rules, 2014 (amended in 2022), any individual who is a national of a country sharing a land border with India is required to furnish security clearance from the Ministry of Home Affairs along with their consent to act as a director. Since China shares a land border with India, Mr. Shu Kin IP was required to obtain such clearance, which was not provided.
- 3.3 The Respondent certified Form DIR-12, which included Form DIR-2 as an attachment, and declared that all records had been verified from original or certified documents and were true, correct, and complete. Hence, the Respondent failed to ensure the compliance of the Rule 8 of the Companies (Appointment and Qualification of Directors) Rules, 2014 (as amended in 2022) read with Section 152(5) of the Companies Act, 2013 and consequently, wrongly /

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of Home Affairs, Government of India despite being Chinese national. Thus, the Respondent failed to exercise due diligence while discharging her professional duties.

- 3.4 Accordingly, the Director (Discipline) in his Prima Facie Opinion held the Respondent GUILTY of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949. The said Item of the Schedule to the Act, state as under:

Item (7) of Part I of Second Schedule states as under:

"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"

- 3.5 The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee at its meeting held on 26th September 2024. The Committee on consideration of the same, concurred with the reasons given against the charge(s) and thus, agreed with the Prima Facie opinion of the Director (Discipline) that the Respondent is GUILTY of Professional Misconduct falling within the meaning of Item (7) of Part I of 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	5 th April 2024
2.	Date of Written Statement filed by the Respondent	18 th May 2024
3.	Date of Rejoinder filed by the Complainant	Not submitted
4.	Date of Prima Facie Opinion Formed by Director (Discipline)	22 nd August 2024

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5.	Written Submissions by the Respondent after Prima Facie Opinion	9 th December 2024
6.	Written Submissions by the Complainant Department after Prima Facie Opinion	Not submitted

5. WRITTEN SUBMISSIONS FILED BY THE RESPONDENT:

5.1 The Respondent vide letter dated 9th December 2024, inter-alia, submitted as under:-

- a) That the requirement to obtain security clearance from Ministry of Home Affairs came vide amendment to Rule 8 of the Companies (Appointment and Qualification of Directors) Rules 2014 and same was applicable w.e.f. 1st June 2022.
- b) That the said amendment missed her attention and said certification was completely unintentional and under no circumstances, it was for helping a Chinese national to be appointed as a director.
- c) That there was also an amendment at the same time i.e. 1st June 2022 in Rule 10 of the Companies (Appointment and Qualification of Directors) Rules 2014 which states that "no application number shall be generated in case of the person applying for DIN is a national of a country sharing land border with INDIA, unless national security clearance from Ministry of Home Affairs has been attached along with application."
- d) That since Mr. Shu Kin IP was allotted DIN on 22nd August 2022, it is presumed that either MCA had erred in allotting the DIN or he was not supposed to obtain a security clearance from Ministry of Home Affairs.
- e) That other documents provided by Mr. Shu Kin IP were of Singapore, except the copy of his passport which suggested that he was a Chinese National – something that might have missed her attention.
- f) That certifying DIR 12 was an inadvertent mistake and the moment the said mistake came to her knowledge, she immediately took steps for rectifying the same by initiating the process for the alleged Director's removal, and which was completed prior to any complaint/issue raised by the Complainant or any other party.

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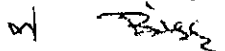
6. BRIEF FACTS OF THE PROCEEDINGS:

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

S. No.	Particulars	Date of meeting	Status of Hearing
1.	1 st Hearing	18.12.2024	Part Heard & Adjourned
2.	2 nd Hearing	08.09.2025	Hearing Concluded and Decision taken

6.2 During the hearing held on 18th December 2024, the Committee noted that the Respondent along with her counsel was present before it via video conferencing. The Committee further noted that the Complainant was not present. The Committee further noted that the Complainant vide email dated 12th December 2024 had requested for a short adjournment. Being the first hearing, the Respondent was put on oath. Thereafter, Respondent made a declaration that there was nobody else in the room from where she was appearing and that she would neither record nor store the proceedings of the Committee in any form. Thereafter, the Committee asked the Respondent whether she was aware of the charge(s) levelled against her to which she replied in affirmative. On being asked as to whether she pleaded guilty on the charges levelled, she pleaded Not Guilty and opted to defend the case. Thereafter, the Committee decided to adjourn the hearing to a future date.

6.3 During the hearing held on 8th September 2025, the Committee noted that Shri Venkataraman K, Assistant ROC the Authorized Representative of the Complainant Department and the Respondent along with her Counsel CA. Raj Singhania and were present before it for the hearing. The Committee apprised the parties that the current Bench had been reconstituted since the matter was last heard and therefore, asked her as to whether they would like the hearing to be de-novo or that matter could be heard from the stage where it was left. The parties on the same opted to heard from the stage it was left. Thereafter, the Committee asked the Counsel for the Respondent to make submissions on the matter. On the same, the Counsel for the Respondent made detailed submissions. The Committee sought clarifications on the submissions made which were responded to by him. Thereafter, the Committee asked the Authorized Representative of



the Complainant Department to make submissions on the matter. On the same, the Authorized Representative of the Complainant made detailed submissions. The Committee sought clarifications on the submissions made which were responded to by him. Based on the documents available on record and after considering the oral and/or written submissions made before it by the Respondent, the Committee concluded hearing in the matter and took its decision.

7. **Findings of the Committee**

On consideration of the documents on record and the oral and written submissions of the parties to the case vis-à-vis facts of the case, the Committee arrived at the following view on the conduct of the Respondent:

Charge - The Respondent certified Form DIR-12 for appointing a Chinese national as director without attaching the mandatory MHA Security Clearance, as required by Rule 8 (amended 01.06.2022) and failed to inform the appropriate enforcement agency of this omission

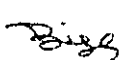
- 7.1 The Committee on perusal of DIR-2 attached with e-form DIR-12, observed that the alleged director had given his consent to act as a director of the said company that:

"I am not required to obtain the security clearance from the Ministry of Home Affairs, Government of India before seeking appointment as director"

- 7.2 Further, under "Certificate by practicing professional" in DIR-12, a declaration was given by the Respondent, which is reproduced as under:

"Certificate by practicing professional

I declare that I have been duly engaged for the purpose of certification of this form. It is hereby certified that I have gone through the provisions of the Companies Act, 2013 and Rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars [including attachment (s)] from the original/ certified records maintained by the Company/ applicant which

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is the subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed.

I further certify that:

☒ The said records have been properly prepared, signed by the required officers of the Company and maintained as per the relevant provisions of the Companies Act 2013 and were to be found in order.

☒ All the required attachments have been completely and legibly attached to this form

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

Hence, the Respondent has in a way certified that Mr. Shu Kin IP was not required to obtain the security clearance from the Ministry of Home Affairs, Government of India as required in terms of Rule 8 of Companies (Appointment and Qualification of Directors) Rules, 2014 (as amended in 2022).

- 7.3 It is noted that Rule 8 of the Companies (Appointment and Qualification of Directors), 2014 was amended in 2022 (effective from 1st June 2022) and the amended Rules state as under: -

"Rule 8 - Consent to Act as Director.

Every person who has been appointed to hold the office of a director shall on or before the appointment furnish to the company a consent in writing to act as such in Form DIR-2:

Provided that the company shall, within thirty days of the appointment of a director, file such consent with the Registrar in Form DIR-12 along with the fee as provided in the Companies (Registration Offices and Fees) Rules, 2014.

Provided further that in case the person seeking appointment is a national of a country which shares land border with India, necessary security clearance from the

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Ministry of Home Affairs, Government of India shall also be attached alongwith the consent."

Therefore, as per the requirements of aforesaid Rule, Mr. Shu Kin IP, being a Chinese national and given that China shares a land border with India, was required to obtain security clearance from Ministry of Home Affairs, Government of India and include it as part of the consent to be given by him under Rule 8 of the said Rules. However, the Respondent had certified that Mr. Shu Kin IP was not required to obtain security clearance from the Ministry of Home Affairs, Government of India.

- 7.4 The Committee noted that the Respondent admitted that certifying DIR 12 was an inadvertent mistake and since the amendment was new, she was not aware of the same. It is noted that the said amendment became effective from 1st June 2022 and the alleged director was appointed by the Respondent vide e-form DIR-12 on 23rd August, 2022 i.e. within less than 3 months from the date of amendment.
- 7.5 The Committee also noted that the Respondent in her submissions stated that the moment, the said mistake came to her knowledge, she immediately took steps for rectifying the same by initiating the process for his removal. In this regard, the Committee noted that the Respondent had brought on record a letter dated 24th June 2023 addressed to the Company, wherein she instructed the Company to remove Mr Shu Kin IP from the post of directorship with immediate effect, as appointment of Mr Shu Kin IP was made without obtaining security clearance. She also brought on record e-form DIR-12 which was filed for removal of Mr. Shu Kin IP from the post of directorship with effect from 24th July 2023. The Committee further noted that the complaint in the alleged matter by the Complainant was filed on 5th April 2024. Hence, the Respondent's bona fide intent is evidenced by the corrective measures adopted to remedy the mistake.
- 7.6 The Committee, after a thorough examination of the facts, submissions, supporting documents, and relevant statutory provisions observed that as per passport of Director Mr. Shu Kin IP, he is Chinese national and nationality of said Director in DIR-12 was mentioned as 'CN'. The Committee looking into the same observed that the Respondent certification without attaching clearance form seems to be an inadvertent error arising from unfamiliarity



with the new amendment and the limited time frame between its notification and the date of certification. The Committee noticed that the discrepancy was merely a procedural lapse, more so, when the other documents on record establishes that the nationality of the said Director is of Singapore. Moreover, there is no evidence that the Respondent with malafide intent or sought to facilitate the appointment of a foreign national in contravention of applicable laws. The Respondent acted on the basis of available information, verified documents, and declarations, and upon discovering the mistake, promptly rectified it. The Respondent's conduct, characterized by good faith, and prompt corrective measures, demonstrates that the lapse was neither deliberate nor intended to mislead or obstruct compliance.

7.7 In light of the above, the Committee viewed that such an inadvertent omission, in the context of an oversight of a recent amendment and in the absence of any deliberate wrongdoing, cannot be construed as gross negligence, and hence the benefit of doubt can be extended to the Respondent in the backdrop of post certification actions taken by her in good faith. Therefore, the Committee holds that the Respondent's actions do not amount to gross negligence, and thereby hold her **Not Guilty** of the charges framed against her.

Conclusion

8. In view of the Findings stated in the 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
S.no.1 of Para 2 as above	Para 7.1 to Para 7.7 as above	Not Guilty- Item (7) of Part-I of the Second Schedule

9. In view of the findings as narrated above, based on the oral and written submissions and material on record, the Committee held the Respondent **NOT GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

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