

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – II (2025-26)]**  
**[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. [PPR/G/100/2025 Clubbed With PPR/G/38/2020-DD/35/INF/2020-DC/1758/2023]**

**In the matter of:**

**CA. Nitin Maniyar (M. No. 140730)**  
C-2105, Levels  
Rani Sati Marg  
Malad East  
Mumbai - 400 097, Maharashtra.

...Respondent

**MEMBERS PRESENT:**

**CA. Charanjot Singh Nanda, Presiding Officer** (in person)  
**CMA. Chandra Wadhwa, Government Nominee** (through Videoconferencing)  
**CA. Mahesh Shah, Government Nominee** (in person)  
**CA. Pramod Jain, Member** (in person)  
**CA. Ravi Kumar Patwa, Member** (in person)

**Date of Final Hearing:** 2<sup>nd</sup> December 2025

**Date of Decision Taken:** 31<sup>st</sup> December 2025

**PARTIES PRESENT** (through video conferencing):

**Respondent:** CA. Nitin Maniyar (M. No. 140730)  
**Authorized Representative of the Respondent:** Shri Utsav Hirani, Advocate

**1. BACKGROUND OF THE CASE:**

- 1.1 In the present case, proceedings were initiated under the Customs Act, 1962, concerning evasion of customs duty by **M/s. Radha Madhav Corporation Limited** (hereinafter referred as "RMCL") in relation to the Export Promotion Capital Goods (hereinafter referred as "EPCG") Scheme. RMCL had obtained eight EPCG authorisations, under which concessional import of capital goods was permitted subject to fulfilment of prescribed export obligations within the stipulated period.

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- 1.2 RMCL failed to fulfil export obligations under the said EPCG authorisations and, such non-fulfilment, fraudulently secured Export Obligation Discharge Certificates (EODCs) from the Directorate General of Foreign Trade (DGFT). On the basis of these EODCs, RMCL allegedly sought redemption of the EPCG licences, thereby avoiding payment of customs duty that would otherwise have become payable upon default.
- 1.3 A Show Cause Notice dated 29<sup>th</sup> June 2020, issued under Section 124 of the Customs Act, 1962, was placed on record by the Informant through a letter dated 2<sup>nd</sup> November 2020. The Show Cause Notice alleges that a conspiracy was orchestrated involving senior officials of RMCL, external consultants, and the Respondent, to create and rely upon bogus export documents for the purpose of falsely demonstrating fulfilment of export obligations.
- 1.4 According to the allegations, Shri Abhishek Agarwal, Joint Managing Director of RMCL, and Shri Ramesh Chavan played key roles in managing the fraudulent procurement of EODCs from the DGFT. The Respondent assisted in this process by preparing and/or certifying false export-related documents, including ANF 5B (Statement of Exports for Redemption), which were submitted to the DGFT, Mumbai.
- 1.5 The Respondent is alleged to have failed in discharging his professional duties and responsibilities, having knowingly certified fabricated documents for monetary consideration. On the strength of such certifications, RMCL is alleged to have wrongfully obtained redemption of eight EPCG Authorisations without making actual exports, resulting in an alleged revenue loss of approximately ₹135 crore to the Government Exchequer.
- 1.6 The case, therefore, concerns the alleged misuse of the EPCG Scheme, fraudulent procurement of EODCs, and the role attributed to the Respondent in facilitating such acts through certification of export documents, forming the basis of proceedings under the Customs Act, 1962.

2. **CHARGES 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 signed/certified, ANF 5B (08 nos.) - Statement of Exports for redemption, without making any due export by M/s. Radha Madhav Corporation Limited (RMCL) on the basis of bogus documents prepared by its directors. The Respondent was also the GST/VAT Auditor for M/s. Punit Creation and was aware about the non-existence of any relation between M/s. Punit Creation and RMCL. The Respondent, by his acts of omission and commissions rendered the capital goods having an assessable value of Rs. 60,59,10,117/- imported under the subject EPCG Authorization.	Guilty	Item (7) of Part I of the Second Schedule and Item (2) of Part IV of First Schedule

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**3. THE RELEVANT ISSUES DISCUSSED IN THE PRIMA FACIE OPINION DATED 13<sup>th</sup> MARCH 2023 FORMULATED BY THE DIRECTOR (DISCIPLINE) IN THE MATTER IN BRIEF, ARE GIVEN BELOW: -**

**3.1 With respect to charge that the Respondent had signed the ANF 5B (Statement of Exports for Redemption) for eight EPCG Authorisations and these certifications are alleged to have been made on the basis of bogus documents, despite the absence of genuine exports by RMCL:**

- 3.1.1 The Respondent had signed ANF-5B – Statement of Exports for Redemption, which was alleged to have been signed without making any due export by M/s Radha Madhav Corporation Limited (RMCL), on the basis of bogus documents. The Respondent was statutorily bound to certify the documents only after carrying out specific prescribed verifications. The Respondent was the GST/ VAT Auditor of M/s Punit Creation and was aware of the non-existence of any relationship between M/s Punit Creation and RMCL. As per the Informant, the Respondent had chosen to ignore his statutory duties and had knowingly certified forged and fabricated documents prepared by Shri Ramesh Chavan and Shri Abhishek Agarwal. He was fully aware of his role and duties, the checks required prior to verification, and the consequences mentioned on the certification page that legal action would be initiated if certification was found incorrect. Despite this, he had knowingly and willingly certified the documents due to monetary consideration and his close association with Shri Ramesh Chavan. By his acts of omission and commission, the Respondent appeared to have rendered the capital goods having an assessable value of Rs. 60,59,10,117/-, imported under the subject EPCG Authorisations, liable to action.
- 3.1.2 The Informant had brought on record copies of ANF-5B certificates issued by the Respondent along with his statements recorded before the Senior Intelligence Officer, DRI, under Section 108 of the Customs Act, 1962 on 24<sup>th</sup> June 2019, 10<sup>th</sup> July 2019 and 27<sup>th</sup> August 2019. The Informant had submitted these documents along with his letter dated 2nd November 2020. It was noted that certain ANF-5B certificates had been issued by the Respondent in favour of RMCL on the basis of exports made by M/s Punit Creation and others, treating the same as own exports.
- 3.1.3 RMCL had procured 8 EPCG licences for import of capital goods. As per the conditions of the licence, RMCL was required to discharge export obligation to the extent mentioned in the licence against the benefit availed during importation of capital goods. For this purpose, RMCL was required to obtain EODC confirming that exports had taken place. As per the Respondent, RMCL had decided to fulfil the export obligation through third-party exporter M/s Punit Creation. He stated that his role was limited to issuing a certificate certifying such third-party exports after checking the relevant documents and records. The relevant documents were shipping bills, which were checked thoroughly by him.
- 3.1.4 The Respondent further submitted that he had acted purely in good faith and without mala fide intention, adhering to basic principles of certification. He was informed that the Foreign Trade Policy permitted third-party export benefits for closure of EODC. He was shown shipping bills of M/s Punit Creation, disclaimer certificates and NOCs permitting use of such shipping bills for third-party export benefits. M/s Punit Creation had been a client of Shri Ramesh Chavan for the past 15 years, and Shri Ramesh Chavan had been handling all export-import compliance, including licensing matters. The Respondent believed the original NOCs shown to him to be genuine due to this long-standing

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association. It was only during the DRI investigation that he came to know that the NOCs and disclaimer certificates were fake and that shipping bills were misused. He was informed that acceptance of third-party exports for EODC closure was a policy matter to be decided by DGFT, and that DGFT generally issued clarification letters in case of ambiguity, which was not done in this case. He therefore signed the certificates in good faith and trust.

- 3.1.5 The Respondent was informed that RMCL could not fulfil the export requirement under the EPCG licences and therefore had applied for EODC based on third-party exports. He was informed that third-party shipping bills could be used as per Foreign Trade Policy and that approval or rejection thereof was to be decided by DGFT. He was shown NOC/disclaimer certificates to establish that the shipping bills were not used under any other licence and could be used by third parties. He was shown shipping bills of M/s Punit Creation along with the NOC for third-party export.
- 3.1.6 The Respondent checked the correctness of the annexure to the certificate arithmetically and verified that any shipping bill considered for meeting Average Export Performance was not considered for meeting regular Export Obligation (EO).
- 3.1.7 In light of the above submissions and documents, it was noted that, as per the Informant, RMCL had obtained 8 EPCG licences during 2006–2008 for import of capital machineries and had imported capital goods; however, even after lapse of the export obligation discharge period, the export obligation was not fulfilled. RMCL neither paid the duty saved nor obtained extension of the export obligation period.
- 3.1.8 RMCL had filed applications for closure of these licences in year 2018, claiming fulfilment of export obligation, based on which DGFT had issued EODCs.
- 3.1.9 RMCL was engaged mainly in manufacturing packaging materials, cast and blown films, and network marketing of consumer products. As per licence conditions, RMCL was required to export goods on FOB basis equivalent to eight times the duty saved, amounting to approximately Rs. 135 Crores. Scrutiny of Customs IT system data showed exports of approximately Rs. 17 Crores (FOB), resulting in a shortfall of about Rs. 118 Crores.
- 3.1.10 Upon examination of the overall facts and documents placed on record, the connivance of the Respondent with Shri Abhishek Agarwal, Joint Managing Director of M/s RMCL, and Consultant Shri Ramesh Chavan were apparently coming out when he had certified the documents based on trust without verifying the facts. The Respondent, being a professional member of the Institute, was expected to endeavour professional assignments with utmost care however, in the extant case, such blatant reliance on the documents by the Respondent without independently verifying the facts further indicated towards his conduct. The said documents were submitted to the DGFT, Mumbai, for redemption of the 8 EPCG Licences without making any due export, which caused a loss of Rs. 135 Crore to the Government Exchequer, and accordingly, the Respondent had failed to act diligently.

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- 3.2 Accordingly, the Director (Discipline) in his Prima Facie Opinion held the Respondent GUILTY of Professional and Other Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule and Item (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949. The said Item(s) of the Schedule to the Act, state as under:

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

*Professional misconduct in relation to chartered accountants in practice:*

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

x    x    x    x    x    x    x    x    x    x

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

**Item (2) of Part IV of First Schedule:**

*Other misconduct in relation to members of the Institute generally*

*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."*

- 3.3 The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee at its meeting held on 31<sup>st</sup> October 2023. 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 and Other Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule and Item (2) of Part IV of First 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:**

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 Information in Form 'I' filed by the Informant	2 <sup>nd</sup> November 2020
2.	Date of Written Statement filed by the Respondent	7 <sup>th</sup> April 2021
3.	Date of Prima Facie Opinion Formed by Director (Discipline)	13 <sup>th</sup> March 2023
4.	Written Submissions by the Respondent after Prima Facie Opinion	18 <sup>th</sup> July 2023, 06 <sup>th</sup> January 2025, 10 <sup>th</sup> October 2025, 18 <sup>th</sup> November 2025, 19 <sup>th</sup> November 2025 and 02 <sup>nd</sup> December 2025

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5. **WRITTEN SUBMISSIONS FILED BY THE RESPONDENT:**

- 5.1 The Respondent vide letter dated 18<sup>th</sup> July 2023, 06<sup>th</sup> January 2025, 10<sup>th</sup> October 2025, 18<sup>th</sup> November 2025, 19<sup>th</sup> November 2025 and 02<sup>nd</sup> December 2025, inter-alia, submitted as under: -

**A. TECHNICAL ARGUMENTS/Preliminary Objections**

- 5.1.1 The Respondent drew attention to Rule 8(1) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, which mandates that the Director or an authorized officer must act within sixty days of receipt of a complaint. It was contended that although the information was received by Director (Discipline) on 02<sup>nd</sup> November 2020, it was communicated to the Respondent only on 17<sup>th</sup> February 2021, rendering the inquiry stale and legally unsustainable. Accordingly, the Respondent asserted that the proceedings ought to be closed forthwith.
- 5.1.2 The Respondent submitted that it is an established principle of law that when a statute prescribes a specific procedure, such procedure must be strictly followed. It was emphasized that proceedings relating to professional misconduct are quasi-criminal in nature and are conducted by a quasi-judicial authority. Any deviation from the prescribed procedure could seriously impact the professional livelihood, reputation, and dignity of the Respondent and their family.
- 5.1.3 Reliance was placed on the judgment of the Hon'ble Delhi High Court in N. Sanpath Ganesh vs. ICAI, wherein the Court held that strict and rigorous adherence to the 2007 Rules is the sine qua non for a valid inquiry under Sections 21(4) and 21-B (2) of the Chartered Accountants Act, 1949. The Respondent submitted that compliance with procedural rules is mandatory and that the present inquiry could not have been initiated due to multiple procedural lapses.
- 5.1.4 The present matter had been initiated as an "information" case under Rule 7 of the Rules. The Respondent contended that Director (Discipline) was statutorily obligated, in the first instance, to communicate with the informant and inquire whether the informant wished to file a formal complaint in Form-I. The Respondent requested copies of such communication, asserting that in the absence of compliance with Rule 7(2), the inquiry could not proceed.
- 5.1.5 The Respondent argued that the information provided did not link the allegations to specific clauses of the Schedules to the Chartered Accountants Act, as required by law. It was contended that Director (Discipline) could not assume the role of the complainant by independently assigning clauses, as such conduct amounted to acting beyond jurisdiction.

**B. ARGUMENTS ON MERITS**

- 5.2 The statements recorded on 24th June 2019 and 10th July 2019 were obtained under coercion and in a hostile environment and therefore were not voluntary. These statements were retracted on 11th July 2019, and even thereafter, the Respondent was forcibly made to sign further statements, which were also retracted.



- 5.2.1 Such statements could not be relied upon in the present proceedings, as they violated fundamental rights under the Constitution of India and were barred under Section 25 of the Indian Evidence Act, 1872. Reliance was placed on the Supreme Court judgment in Tofan Singh vs. State of Tamil Nadu, wherein it was held that statements recorded by officers possessing powers akin to police officers are inadmissible under Section 25 of the Evidence Act. The Respondent also relied upon Vinod Solanki vs. Union of India and K.T.M.S. Mohd. vs. Union of India, to submit that retracted confessions must be examined with caution, and that the burden lies on the prosecution to establish voluntariness.
- 5.2.2 Allegations against the Respondent were based solely on such inadmissible statements, without any independent corroborative evidence. The Respondent stated that after being sent to judicial custody, they retracted the statement from Arthur Road Jail. The statement reproduced in the show cause notice had been materially altered. The arrest was strategically timed to obstruct bail proceedings of other accused persons.
- 5.2.3 Despite informing the DRI of forged signatures on certificates submitted to the DGFT, this critical information was ignored in the PFO. The presence of forged signatures clearly indicated the Respondent's non-involvement in any conspiracy.
- 5.2.4 The An affidavit of Mr. Ramesh Chavan had been submitted in support of their innocence, which emphasized that the Respondent received only ₹2,000 per certificate and issued the certificates after thorough verification of documents.
- 5.2.5 The Certificates were issued in compliance with ICAI's Guidance Note on Special Purpose Certificates, and that due professional care, judgment, and verification had been exercised. Reliance on an experienced export-import consultant for policy interpretation was described as a common professional practice.
- 5.2.6 During the relevant years (2005–2009), Foreign Trade Policy and Handbook of Procedures permitted third-party exports under EPCG schemes, and that DGFT had ultimate authority to accept or reject such exports.
- 5.2.7 The Hon'ble Madras High Court held that issuing Form 15CB is a procedural requirement under the Income-tax Rules and does not involve investigation, audit, or verification of the underlying commercial transaction. A Chartered Accountant certifies the nature of the remittance based solely on documents provided by the client, and there is no statutory duty to examine the genuineness of the client's business activities.
- 5.2.8 The Hon'ble Supreme Court, in the ED's appeal, declined to interfere and upheld the discharge of the Chartered Accountant. Routine professional certification performed in good faith and in accordance with law cannot amount to abetment of money laundering in the absence of mens- rea or involvement in the predicate offence.

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- 5.2.9 A Chartered Accountant cannot be held professionally or criminally liable merely for issuing statutory certificates based on client-provided documents, unless there is evidence of knowledge of illegality, intent to assist, or collusion. Professional acts performed in good faith do not constitute misconduct.
- 5.2.10 Respondent's scope of work with M/s Punit Creation was limited, and that reliance on management representations was reasonable given the nature of certification/ engagements, which provide a lower level of assurance than audits. The Respondent further submitted a copy of the appeal filed before Hon'ble CESTAT against the order of Custom authority and an affidavit clearly stating the documents verified by him before issuance of the alleged Certificate.

**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(s)	Status
1.	1 <sup>st</sup> Hearing	25.07.2023	Part heard and adjourned
2.	2 <sup>nd</sup> Hearing	25.07.2024	Part Heard and Adjourned
3.	3 <sup>rd</sup> Hearing	20.08.2024	Adjourned at the request of the Respondent
4.	4 <sup>th</sup> Hearing	26.09.2024	Part Heard and Adjourned
5.	5 <sup>th</sup> Hearing	06.10.2025	Part Heard and Adjourned
6.	6 <sup>th</sup> Hearing	13.10.2025	Fixed and adjourned
7.	7 <sup>th</sup> Hearing	19.11.2025	Part Heard and Adjourned
8.	8 <sup>th</sup> Hearing	02.12.2025	Hearing Concluded and Judgement Reserved
9	10 <sup>th</sup> Hearing	30.12.2025 (adjourned and then held on 31.12.2025)	Decision taken on the conduct of the Respondent.

- 6.1.1 During the first hearing held in the case on 25<sup>th</sup> July 2023, 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.

Thereafter, looking into the fact that this was the first hearing in the matter, the Committee decided to adjourn the hearing to a future date. With this, the hearing in the matter was partly heard and adjourned.

- 6.1.2 Thereafter, on the Second day of hearing held in the case on 25<sup>th</sup> July 2024, the Committee further noted that subsequent to the last hearing held in the case on 25<sup>th</sup> July 2023, there had been a change in the composition of the Committee. The Committee enquired from the Respondent as to whether he wishes to opt for de-novo hearing in the case to which the Respondent replied in the affirmative. Thereafter, the Respondent was administered Oath. The Committee enquired from the Respondent



as to whether he was aware of the charge(s) alleged against him to which he replied in the affirmative and he pleaded not guilty in respect of the charge(s) alleged against him. The Committee, looking into the fact that the Respondent had opted for de-novo hearing and thus, it being the first hearing, decided to adjourn the hearing in the case to a future date. The Committee also advised the Respondent that if he wishes to file any further written submissions in the case, he may do so. With the above, the hearing in the case was part heard and adjourned.

6.1.3 Thereafter, on the third day of hearing held in the case on 20<sup>th</sup> August 2024, the Committee noted that the Respondent vide email dated 16<sup>th</sup> August 2024 sought adjournment from the hearing in the case due to non-availability of his Counsel as his presence was required elsewhere on account of an unavoidable and urgent work commitment. Looking into the ground on which adjournment was sought by the Respondent and the fact that the request for adjournment had been made by the Respondent for the first time, the Committee acceded to the request of the Respondent for adjournment. Accordingly, the hearing in the case was adjourned at the request of the Respondent.

6.1.4 Thereafter, on the fourth day of hearing held in the case on 26<sup>th</sup> September 2024, the Committee noted that the Counsel for the Respondent was present before it through video conferencing. Thereafter on being asked by the Committee to defend the case, the Counsel for the Respondent presented the line of defence relying upon written submissions dated 26<sup>th</sup> March 2024. The Committee posed certain questions to the Counsel for the Respondent which were replied to by them. Thus, on consideration of the submissions and documents on record, the Committee directed the Respondent to provide the following within next 15 days:

- a) Copy of the relevant Circulars governing FTP policy for the period in respect of
- b) which Certificate had been issued by him,
- c) Checks carried out and documents verified by him prior to the issue of alleged
- d) Certificates by him, and
- e) Any other submissions to substantiate his case.

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

6.1.5 Thereafter, on the fifth day of hearing held in the case on 06<sup>th</sup> October 2025, the Committee noted that the Respondent was present before it through video conferencing. The Committee further noted that at the time of last hearing held in the case on 26<sup>th</sup> September 2024, the hearing in the case was adjourned with the direction to the Respondent to provide the following within next 15 days:

- a) Copy of the relevant Circulars governing FTP policy for the period in respect of which Certificate had been issued by him.
- b) Checks carried out and documents verified by him prior to the issue of alleged Certificates by him, Any other submissions to substantiate his case.

The Committee noted that the Respondent vide letter dated 16<sup>th</sup> January 2025 provided his reply. Subsequent thereto, there had been a change in the composition of the Committee which was duly intimated to the Respondent who was present before the Committee and was given an option of de-novo. The Respondent affirmed to continue with the proceedings in the case. Thereafter, the

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Respondent sought adjournment as was also sought by him vide letter dated 3<sup>rd</sup> October 2025 due to some unavoidable circumstances. To provide a final opportunity to the Respondent to defend his case before it, the Committee decided to adjourn the hearing in the case and list it on 13<sup>th</sup> October 2025 for hearing. With the above, the hearing in the case was part heard and adjourned.

- 6.1.6 Thereafter, on the Sixth day of hearing held in the case on 13<sup>th</sup> October 2025, the Respondent, vide his email dated 10<sup>th</sup> October 2025 requested for an adjournment of hearing on the ground that his counsel Adv. Utsav Hirani has met with an accident, leading to a surgical procedure having been performed on him. Therefore, he is unable to attend the hearing fixed for 13<sup>th</sup> October 2025. He further requested the next hearing be scheduled after 26<sup>th</sup> October 2025, to allow sufficient time for his recovery and to ensure effective representation in the matter. Looking into the ground on which request for adjournment of hearing had been made by the Respondent, the Committee, keeping in view the principles of natural justice, acceded to the request of the Respondent for adjournment. Accordingly, the hearing in the case was adjourned at the request of the Respondent.
- 6.1.7 Thereafter, on the Seventh day of hearing held in the case on 19<sup>th</sup> November 2025, the Respondent along with his Counsel was present before it through Video conferencing. The Committee further noted that the case was last listed for hearing on 13<sup>th</sup> October 2025 and was adjourned at the request of the Respondent. Thereafter, on being asked by the Committee to defend the charges, the Counsel for the Respondent made submissions before the Committee, inter-alia, referring to their written submissions on record before the Committee. The Counsel for the Respondent submitted that the Respondent had retracted his Statement(s) recorded by the Informant Department under Section 108 of the Custom Act 1962 on 24/06/2019 and 27/08/2019. He submitted that relevant documents were shipping bills, which were checked thoroughly by him and issued the certificates without any mala-fide intention. He was shown shipping bills of M/s. Punit Creation, Disclaimer Certificate and NOC to use those shipping bills for third party export benefits. On consideration of the submissions made by the Counsel for the Respondent, the Committee directed the Respondent to provide following information/documents within 7 days: -
- a) Copy of Appeal filed before the Custom, Excise and Service Tax Appellant Tribunal.
  - b) List and name of documents based upon which he certified the Statements of Exports for redemption.
  - c) Copy of documents based upon which he issued the alleged Certificate(s).
  - d) Period and nature of association with M/s. Punit Creation and the scope of work performed by him for the said entity.

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

- 6.1.8 Thereafter, on the Eighth day of hearing held in the case on 02<sup>nd</sup> December 2025, the Committee noted that the Respondent along with his Counsel was present before it through Video Conferencing. The Committee further noted that at the time of last hearing held in the case on 19<sup>th</sup> November 2025 wherein the Respondent along with his Counsel was present, it had directed the Respondent to provide certain information/documents within 7 days. The Committee further noted that the Respondent vide email dated 29<sup>th</sup> November 2025 and 1<sup>st</sup> December 2025 provided this documents/information. On consideration of the submissions made by the Respondent, the



Committee posed certain questions to the counsel for the Respondent, which were duly responded to by him. Thereafter, the Committee, on consideration of the documents on record and the oral and written submissions of the Respondent vis-à-vis facts of the case, decided to conclude the hearing in the case with the stipulation to the Respondent to provide a notarised Affidavit clearly stating the documents verified by him before issuance of the alleged Certificate. Thus, the decision on the conduct of the Respondent was kept reserved by the Committee.

6.1.9 Thereafter, at its meeting held on 31<sup>st</sup> December 2025, the Committee noted that the hearing in the instant case was concluded on 2nd December 2025 with the stipulation to the Respondent to provide a notarised Affidavit clearly stating the documents verified by him before issuance of the alleged Certificate. Thus, the decision on the conduct of the Respondent was kept reserved by the Committee. The Committee noted that the Respondent vide communication dated 8th December 2025 provided the copy of the notarised Affidavit.

6.1.10 After detailed deliberations, and on consideration of the facts of the case, various documents on record as well as oral and written submissions made by the Respondent before it, the Committee took the decision on the conduct of the Respondent.

7. **FINDINGS OF THE COMMITTEE: -**

At the outset, the committee noted that the Respondent has raised following preliminary Objections which as per him were procedural lapses in the matter concerned:

7.1 **Matters of Professional Misconduct are quasi-criminal in nature and are conducted by quasi-judicial body, they cannot be conducted in callous manner:**

7.1.1 As regards the above objection of the Respondent that the extant proceedings are quasi-criminal, the Committee opined that the proceedings before it are quasi-judicial in nature where the misconduct can be proved by preponderance of probabilities having regard to the conduct of the Respondent which is distinct from Criminal proceedings, where the misconduct has to be proved beyond reasonable doubt. While coming to the said view, the Committee took into consideration the decision of the Hon'ble Supreme Court in the matter of '**Ajit Kumar Nag –vs- General Manager (PJ) Indian Oil Corporation Limited**' -AIR 2005 SC 4217 wherein the Hon'ble Apex Court held as under:-

*"The degree of proof which is necessary to order a conviction is different from the degree of proof necessary to record the commission of delinquency. The rules relating to appreciation of evidence in the two proceedings is also not similar. In criminal law, burden of proof is on the prosecution and unless the prosecution is able to prove the guilt of the accused 'beyond reasonable doubt he cannot be convicted by a Court of law. In a departmental enquiry penalty can be imposed on the delinquent Officer on a finding recorded on the basis of 'preponderance of probability'."*

Similarly in the matter of **Capt. M Paul Anthony –vs- Bharat Gold Mines Limited -AIR....1999 SC 1416** the Hon'ble Supreme Court held as under: -

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*"In Departmental proceedings, factors prevailing in the mind of the Disciplinary authority may be many, such as enforcement of discipline to investigate level of integrity of delinquent or other staff. The standard of proof required in those proceedings is also different from that required in a criminal case. While in Departmental proceedings, the standard of proof is one of preponderance of probabilities, in a criminal case, the Charge has to be proved by the prosecution beyond reasonable doubt."*

Thus, in the matters before the Committee, the Strict Rules of Evidence may not be considered while examining the conduct of the Respondent and such a plea is not sustainable.

7.2 **Non-Compliance of Rule 7 of Chartered Accountant (Procedure of Investigations of Professional and other Misconduct and Conduct of cases) Rules, 2007.**

- 7.2.1 The Committee noted that there is no timeline prescribed in Sec 21 of the Act. The timeline prescribed through subordinate legislation in the Rules is not to render any complaint/ information defunct/ invalid merely on the ground of procedural time lag, if any occurred. In this regard, the observations of the **Hon'ble Supreme Court in 'Sardar Amarjit Singh Kalra and Ors. v. Parmod Gupta and Ors' [(2003) 3 SCC 272]** are pertinent as reproduced below:

*"Law of procedure are meant to regulate effectively, assist and aid the objection of doing substantial and real justice and not to foreclose even an adjudication on merits of substantial rights of citizen under personal, property and other laws. Procedure has always been viewed as the handmaid of justice and not meant to hamper the cause of justice or sanctify miscarriage of justice."*

Further, reference be also made in this context in the judgement of Hon'ble Supreme Court in 'Shaikh Salim Haji Abdul Khayumsab v. Kumar and Ors' [2006 AIR (SC) 396].

Thus, the decision to treat the matters as information was taken on 17<sup>th</sup> February 2021 based on information available on records. With respect to the plea of the Respondent about the lapse of the period of 60 days, it is noted that the said period of 60 days is be taken from the date when allegations have been treated as information by the Director (Discipline). In the extant matters, the said period was initiated on 17<sup>th</sup> February 2021. Hence, the necessary steps were taken within the given time frame. Thus, the extant plea of the Respondent is not maintainable.

7.3 **Non-mentioning of the Clauses by the Informant:**

The Committee was of the view that Procedures are hand maiden of justice and ought not to be stringently interpreted so as to defeat substantive rights of parties. Thus, merely non-mentioning of clauses or incorrect mentioning of clauses pertaining to "misconduct" does not in any manner vitiate the proceedings and it is the obligation of Director(Discipline) to identify the specific acts of professional misconduct or other misconduct, as the case may be.

Considering the above, the Committee was of the view that the said preliminary objection raised by the Respondent are not sustainable. Accordingly, the Committee decided to proceed with the matter by considering it on merits.

CA

8. **Charge – The Respondent had signed the ANF 5B (Statement of Exports for Redemption) for eight EPCG Authorisations. These certifications have been made on the basis of bogus documents, despite the absence of genuine exports by RMCL.**

8.1 The committee noted that the sole charge against the Respondent as alleged is with respect to certification of Form(s) ANF 5B (Redemption of export obligation) which as per the informant were issued on the basis of bogus documents and in absence of genuine exports by RMCL. The Committee noted that eight EPCG authorization were issued on the basis of the Certificates as certified by the Respondent.

8.2 The Committee on perusal of the Form(s) ANF 5B noted that the said certificates are required to discharge export obligations for Redemption of an EPCG Authorization. These Forms are used to show fulfilment of the export obligations tied to the EPCG license and seek closure of the authorization. The EPCG scheme allows exporters to import capital goods (for production or export of goods/services) at zero or reduced customs duty, provided they meet certain export obligation conditions. When those obligations are completed, ANF 5B is the statutory form used to seek closure of the authorization and confirm that the obligations have been met.

8.3 The Committee noted that the Form ANF 5B typically requires:

- a) Details of the exporter (IEC, address)
- b) EPCG authorization number and dates
- c) Amount of duty saved and utilized
- d) Installation certificate details
- e) Export obligation period and actual exports made

By completing and submitting ANF 5B with supporting documents, the exporter formally notifies DGFT of export performance and seeks redemption/closure of the EPCG authorization.

8.4 In case a company wishes to fulfil the EPCG authorization with third party exports the additional disclosures are required to be disclosed in the Form are as:

- a) Export Obligation (EO) credit is allowed to the EPCG licence holder, even if the physical export is made by a third party, provided conditions under FTP & HBP are satisfied.
- b) In third-party export scenarios, export obligation credit is admissible to the EPCG Authorisation holder, provided the exports are declared as third-party exports in Form ANF-5B and the prescribed conditions under the Foreign Trade Policy and Handbook of Procedures are duly complied with.
- c) The EPCG holder is required to furnish complete details of such third-party exports in Form ANF-5B, including the IEC of the third-party exporter, Shipping Bill numbers and dates, FOB value, and endorsement of the relevant EPCG Authorisation number on the Shipping Bills.

*CR*

- d) For the purpose of export obligation discharge, it is mandatory that the export proceeds are realised in the bank account of the EPCG Authorisation holder, and that the goods exported are eligible under the EPCG Scheme and are exported within the stipulated export obligation period.
- e) Further, a disclaimer certificate from the third-party exporter is required to be submitted, confirming that the third party has not claimed and shall not claim any export incentive or export obligation benefit in respect of the said exports, and has no objection to such exports being considered towards fulfilment of export obligation of the EPCG Authorisation holder.
- f) Form ANF-5B must be supported by self-certified copies of Shipping Bills, e-BRCs, installation certificate of capital goods, and a statement of export obligation fulfilment. Upon satisfactory examination and acceptance of Form ANF-5B by DGFT, the export obligation is treated as fulfilled and the EPCG Authorisation is redeemed, enabling release of the bond or bank guarantee, as applicable.

8.5 The Committee observed that the instant case pertains to certification of Form(s) ANF 5B wherein the alleged company discharged the export obligations by furnishing the documents and fulfilling the conditions of third-party exports. The Committee observed that the following licences were issued by the DGFT which are as follows:

S.No.	Licence No.	Licence Date	Licence wise Duty saved
1.	0330019518	29.03.2006	22669326
2.	0330019475	04.10.2006	48971560
3.	0330019624	08.01.2007	3580832
4.	0330019249	29.11.2007	5004704
5.	0330019712	08.01.2008	19638602
6.	0330019323	05.03.2008	15821488
7.	0330019965	06.05.2008	9097467
8.	0330019078	25.08.2008	43404449
<b>Total Duty Debited</b>			<b>16,81,88,430</b>

The Committee observed that the licences issued above were discharged by issuance of Form ANF 5B which were certified by the Respondent whose details are as follows:



S.No.	Licence No.	Licence Date	Licence wise Duty saved	Redemption Applied	EODC issued Date
1.	0330019518	29.03.2006	22669326	08.08.2018	31.08.2018
2.	0330019475	04.10.2006	48971560	08.08.2018	31.08.2018
3.	0330019624	08.01.2007	3580832	08.08.2018	31.08.2018
4.	0330019249	29.11.2007	5004704	08.08.2018	31.08.2018
5.	0330019712	08.01.2008	19638602	08.08.2018	31.08.2018
6.	0330019323	05.03.2008	15821488	08.08.2018	31.08.2018
7.	0330019965	06.05.2008	9097467	08.08.2018	29.09.2018
8.	0330019078	25.08.2008	43404449	11.08.2018	31.08.2018
<b>Total Duty Debited</b>			<b>16,81,88,430</b>		

8.6 The Committee noted that the prime evidence with respect to the charge alleged against the Respondent in the instant case is as under:

- a) The Statement of the Respondent before the Informant Department which had been retracted by him as tabulated hereunder:

S. No.	Statement on Oath recorded under section 108 of Custom Act, 1962 dated as below	Retraction by the Respondent from the statement recorded on oath
1.	24.06.2019	28.08.2019
2.	10.07.2019	28.08.2019
3.	27.08.2019	28.08.2019

The Committee on perusal of retraction of the Respondent referred to a judgement passed by Hon'ble Supreme Court in case of Vinod Solanki Vs. Union of India and Ors. (SC) where the Supreme Court held that:

*"34. A person accused of commission of an offence is not expected to prove to the hilt that confession had been obtained from him by any inducement, threat or promise by a person in authority. The burden is on the prosecution to show that the confession is voluntary in nature and not obtained as an outcome of threat, etc. if the same is to be relied upon solely for the purpose of securing a conviction.*

CA

*With a view to arrive at a finding as regards the voluntary nature of statement or otherwise of a confession which has since been retracted, the Court must bear in mind the attending circumstances which would include the time of retraction, the nature thereof, the manner in which such retraction has been made and other relevant factors. Law does not say that the accused has to prove that retraction of confession made by him was because of threat, coercion, etc. but the requirement is that it may appear to the court as such."*

On perusal of the above judgement and relying upon the same, the Committee was of the view that the Respondent's retraction is well within the timeframe.

- b) The copy of the Order no. 172/2025-26/commr./NS-II/CAC/JNCH dated 21.08.2025 passed by Commissioner of Customs against the Respondent amongst others, where, inter-alia, penalty of Rs. 4,00,000/- under Section 112(b) of the Customs Act 1962 had been levied on him and that too only for professional misconduct and not holding him liable for other Misconduct, inter-alia, with the following observations:

*"I find that Noticee No. 4 was statutorily bound to certify the documents only after specific verifications prescribed. He was the GST Auditor, VAT Auditor of M/s. Punit Creation. He chose to ignore his statutory duties and agreed to certify the documents prepared by Noticee No. 3 and Noticee No. 2 without verifying the same and solely based on trust. He was fully aware of his role and duties, he was also aware of the various checks required to be done prior to verification of such documents and he also had gone through the consequences mentioned on the same page that legal action shall be initiated if certification was found incorrect. Thus, I find that his negligence in duty facilitated Noticee No. 1 to obtain EODCs fraudulently.*

*However, having certified the documents in relation to the capital goods imported under the impugned EPCG licences which are liable for confiscation, he has rendered himself liable to penalty under Section 112 (b) of the Customs Act, 1962. Further, the fact remains that there is nothing on record to show that he knowingly or intentionally certified the documents believing it to be false or incorrect. Therefore, I hold that Noticee No.4 is not liable for penalty under section 114AA of the Customs Act, 1962.*

.....  
*57.4.6. I also find that in determining the penalty for Noticee No. 4, a lenient approach is warranted based on his role as a chartered accountant who certified documents in good faith, relying on the expertise and representations of Noticee No. 3 without evidence of direct involvement in the forgery or conspiracy. The evidence, including his retracted statements, lack of corroboration for claims of extraneous benefits (he received only Rs. 2,000 per certificate as professional fees), and absence of mens rea (intentional wrongdoing), supports mitigation.*

.....  
*I impose penalty of Rs.4,00,000/- (Rupees Four lakh only) under Section 112(b) of the Customs Act, 1962, on Shri Nitin Ashok Maniyar;  
I do not impose penalty under Section 114AA of the Customs Act, 1962, on Shri Nitin Ashok Maniyar;*



The Respondent vide communication dated 29<sup>th</sup> November 2025 provided the copy of the Appeal which had been filed by him filed before the Hon'ble CESTAT, Mumbai against the said Order on 24<sup>th</sup> November 2025.

- 8.7 The Committee further noted that the Respondent during the hearing submitted that he had duly examined and verified the relevant documents, which inter alia included the following:
- Shipping Bills, which were accessed and verified through the official Customs portal to ascertain their authenticity, particulars of export, and linkage with the EPCG authorisation.
  - e-BRCs, wherein the realised export proceeds were cross-verified, on a sample basis, with the corresponding shipping bills to confirm correctness and consistency.
  - A copy of the EPCG Licence, along with its conditions and other relevant particulars, to ensure that the exports claimed were eligible for discharge of export obligation under the applicable scheme.
  - A No Objection Certificate / Disclaimer issued by M/s Punit Creations, expressly authorising the use of its shipping bills for the purpose of third-party exports towards fulfilment of the export obligation of the EPCG authorisation holder.
  - A declaration and undertaking from the client affirming that the shipping bills relied upon had not been utilised earlier for discharge of export obligation under any other authorisation or scheme.
  - Annexures and supporting Excel statements, the arithmetical accuracy and logical consistency of which were verified to ensure proper computation of export obligation fulfilment.
  - Confirmation and verification that the shipping bills considered for export obligation fulfilment had not been used under any other EPCG authorisation, thereby ruling out duplication of benefit.
  - As informed by Mr. Ashok Chavan (an external expert who approached the Respondent to issue the alleged certificate and Respondent relied upon his submissions),
  - The issuance of the Export Obligation Discharge Certificate (EODC) and the permissibility of third-party exports are governed by the provisions of the Foreign Trade Policy and corresponding circulars, which are amended and updated from time to time. The authority to interpret and implement these provisions vests exclusively with the Directorate General of Foreign Trade (DGFT).

The Committee further observed as under:

S.No.	Document Required to be Checked	Purpose of Verification	Status (Verified or not by Respondent)
1.	Shipping Bills (Customs Portal)	To verify authenticity of exports, export particulars, EPCG linkage, and third-party export details	Checked and verified
2.	e-BRCs / BRCs	To confirm realisation of export proceeds and cross-verification with corresponding shipping bills	Checked and cross-verified

*GA*

3.	No Objection / Disclaimer Certificate from third-party exporter (M/s Punit Creations)	To authorise use of shipping bills for third-party exports and waive claim of export benefits	Checked and verified
4.	Declaration and Undertaking from EPCG holder	To ensure shipping bills were not previously used for any other export obligation	Checked and verified
5.	Annexures and Supporting Excel Statements	To compute EO fulfilment and verify arithmetical and logical consistency	Checked and verified
6.	Confirmation of non-duplication of Shipping Bills under other EPCG Authorisations	To ensure shipping bills were not used for discharge under any other EPCG licence	Checked and verified
7.	DGFT EODC Issuance Status	To confirm acceptance of third-party exports and completion of EO by competent authority	Verified (EODC issued without objection)

8.8 The Committee further noted that Shri Ramesh Chavan's(DGFT Consultant) duly sworn affidavit dated 20th October 2022 is also brought on record by the Respondent, wherein Shri Ramesh Chavan admitted that he had provided the documents, which were relied upon by the Respondent for certification of Forms ANF 5B in this case. The relevant extract of the said affidavit is reproduced here as under:

"Therefore, I hereby declare that the allegation made by the O/o the DRI on Mr. Nitin Maniyar in the SCN, is completely untrue and wrong.

*10, My Above stated declaration is real, true and correct and executed by me to safeguard the innocence of Mr. Nitin Maniyar against the reflection of untrue wrong and false allegation levied on him due to my above allegatory statement which was untold but inserted in my statement by the officer of DRI and in SCN of their own without my knowledge. The above stated facts are true and correct to the best of my knowledge."*

8.9 The Committee observed that the Respondent has relied upon the documents as produced to him by Shri Ashok Chavan who was extensively involved in the custom clearances and compliances. While issuing the alleged certificates the Respondent verified shipping bills from ICEGATE portal to check whether the bills provided by Shri Ashok Chavan were genuine or not, which he found satisfactory. After concluding that the documents are proper and genuine, the Respondent issued the alleged certificates which were used by the Company to obtain the EPCG authorization.

*GM*



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

**Order**

11. 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 an Order for Closure of this case against the Respondent.

Sd/-  
(CA. CHARANJOT SINGH NANDA)  
PRESIDING OFFICER

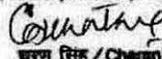
Sd/-  
(CMA. CHANDRA WADHWA)  
(GOVERNMENT NOMINEE)

Sd/-  
(CA. MAHESH SHAH)  
(GOVERNMENT NOMINEE)

Sd/-  
(CA. PRAMOD JAIN)  
(MEMBER)

Sd/-  
(CA. RAVI KUMAR PATWA)  
(MEMBER)

DATE: 11.02.2026  
PLACE: NEW DELHI

सत्यापित होने के लिए प्रमाणित / Certified to be True Copy  
  
Charan Singh / Charan Singh  
कार्यकारी अधिकारी / Executive Officer  
अनुशासनसम्बन्धक निदेशालय / Disciplinary Directorate  
भारतीय सनदी लेखाकार संस्थान  
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