

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – IV (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.**

**File No.: - [PR/364/2020/DD/357/2020/DC/1815/2023]**

**In the matter of:**

**CA. Rajesh Kumar Khiwani**  
23/26, 2<sup>nd</sup> Floor, East Patel Nagar,  
New Delhi-110008.

**... Complainant**

**Versus**

**M/s. S P Jindal & Associates (FRN 020046N)**  
Plot No. 350, 3<sup>rd</sup> Floor, Tarun Enclave,  
Pitampura, New Delhi-110034.

**... Respondent Firm**

**Member Answerable:**

- 1. CA. Sunil Jindal (M. No. 513220)**  
Partner, M/s S P Jindal & Associates  
350, 3<sup>rd</sup> Floor Tarun Enclave, Pitampura, Delhi-110034
- 2. CA. Mohit Jain (M. No. 543482)**  
Partner, M/s S P Jindal & Associates  
308 Katra Bazaar, Sabji Mandi, Shikohabad, U.P.-283135
- 3. CA. Dinesh Sharma (M. No. 535056)**  
Partner, M/s S P Jindal & Associates  
326, Third Floor, L.S.C Vardhman Fashion Mall, Road No. 43,  
Pitampura, Delhi-110034

**MEMBERS PRESENT (in person):**

**CA. Prasanna Kumar D, Presiding Officer (In person)**  
**Ms. Dakshita Das, IRAS (Retd.), Government Nominee (Through VC)**  
**Adv. Vijay Jhalani, Government Nominee (In person)**  
**CA. Mangesh P. Kinare, Member (In person)**  
**CA. Satish Kumar Gupta, Member (In person)**

**DATE OF FINAL HEARING : 16<sup>th</sup> October 2025**

**PARTIES PRESENT:**

**Counsel for Respondent (CA. Sunil Jindal): CA. Sumit Kansal (through VC)**

1. **Background of the Case:**

That Complainant has stated that he was the Statutory Auditor of Company namely M/s. Vantage Integrated Security Solution Pvt Ltd. (herein after referred to be as the "the Company") on 30<sup>th</sup> September 2015 till the conclusion of Annual General Meeting to be held in the year 2019. He further stated that the Company conducted an Annual General Meeting on 30<sup>th</sup> September 2019 without sending any special notice as required under Section 140(4) of the Companies Act, 2013 and appointed a new auditor (i.e., the Respondent's firm). The Complainant has alleged that the Respondent's firm has accepted the said appointment despite aforesaid objection being raised by the Complainant.

2. **Charges in brief:**

- 2.1 The Respondent(s) have approached Complainant for seeking NOC long after the acceptance of audit assignment by them.
- 2.2 The Respondent(s) themselves started to liaising on behalf of the Company for getting the dues of Complainant cleared. Thus, impliedly the Respondent has accepted the audit assignment despite being aware that there were certain unpaid dues of the Complainant.
- 2.3 The Respondent(s) accepted the position of auditor of the subject Company despite the objection being raised by the Complainant that the Company has not complied with the provisions of section 140 (4), 146 etc. of the Companies Act, 2013 pertaining to serving of special notice to them before removing them as the auditor of the said Company.

3. **The relevant issues discussed in the Prima Facie Opinion dated 21<sup>st</sup> February 2023 formulated by the Director (Discipline) in the matter in brief, are given below:**

- 3.1 In respect of first charge mentioned in para 2.1 above, it was seen that the Complainant has brought on record following documents in support of his allegation:
  - Email dated 30<sup>th</sup> August 2020 sent by the Respondent seeking Complainant's NOC.

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- Extract of Resolution passed in the AGM held on 30th September 2019 for appointment of Respondent Firm.
- Acceptance of Respondent firm for the said appointment for the financial year 2019-20 to 2023-24.
- Appointment letter dated 30.09.2019 of the subject Company appointing the Respondent firm to hold office up to the conclusion of AGM to be held in the financial year ending 31st March 2024.
- ADT-1 filed by the subject Company dated 19.09.2020 for appointment of Respondent firm namely S.P. Jindal & Associates.

3.2. From the aforesaid documents available on record, and in the absence of any Written Submission by the Respondents, it was amply clear that the Respondents had approached the Complainant for seeking his NOC vide email dated 30th August 2020, whereas the resolution passed by the Company (which must obviously have been after the acceptance of appointment by the Respondent) had been passed in the AGM held on 30th September 2019. It was also seen that the appointment letter in favour of the Respondent had also been issued by the Company on the same date, i.e., 30th September 2019. Thus, the contention of the Complainant that the Respondents had accepted the position of auditor of the subject Company without first communicating with the Complainant appeared to have been justified. Hence, the Respondents were prima facie **guilty** of professional misconduct falling within the meaning of Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

3.3. In respect of second charge mentioned in Para 2.2 above, it was noted that the Complainant had also brought on record various email communications exchanged between him and the Respondent firm, starting with the email dated 31.08.2020 of the Respondents seeking NOC from the Complainant. In view of the said e-mails, it was clearly seen that the Complainant had raised objections regarding non-payment of his audit fees in his email dated 09.09.2020 at 1:24 PM, email dated 09.09.2020 at 3:29 PM, and email dated 10.09.2020 sent to the Respondent firm. It was also seen from various emails of the Respondent(s) that they had been liaising on behalf of the Company for settlement of the Complainant's fees. Thus, the Respondent(s) had

also acknowledged the fact that some part of the Complainant's fees was due from the Company, for which they were seeking the ledger account from the Complainant and asking him to keep them in the loop so that the Company could reconcile the amount in its books with the Complainant's books (email of the Respondent firm dated 09.09.2020 at 4:05 PM). Thus, it was clear that all such liaisoning had been done by the Respondents after their acceptance of appointment dated 30.09.2019. Hence, the Respondent(s) were prima facie **guilty** of professional misconduct falling within the meaning of Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, for violation of the Council's guidelines.

3.4. In respect of third charge mentioned in para 2.3 above, it was observed that Section 139(2) was not applicable to the subject Company since it was not a listed Company, thereby implying that the exception to Section 140(4)(i) of the Companies Act, 2013 (Section 225 of the Companies Act, 1956) was not applicable to the subject Company. In other words, the requirement of special notice for appointing a person other than the retiring auditor (which in the present case was the Complainant) was attracted in spite of the fact that the appointment of the Complainant had been made to hold office from the conclusion of the AGM held on 30.09.2015 till the conclusion of the AGM to be held in the year 2019. Hence, the Respondents were prima facie **guilty** of professional misconduct falling within the meaning of Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

3.5 Accordingly, the Director (Discipline) in his Prima Facie Opinion dated 21<sup>st</sup> February 2023 opined that the Respondent is prima facie **Guilty** of Professional Misconduct falling within the meaning of Clauses (8) and (9) of Part-I of the First Schedule and Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949. The said Clause of the Schedule to the Act, states as under:

**Clause (8) of Part I of the First Schedule:**

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

*(8) accepts a position as auditor previously held by another chartered accountant or a certified auditor who has been issued certificate under the*

*Restricted Certificate Rules, 1932 without first communicating with him in writing;*

**Clause (9) of Part I of the First Schedule:**

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

*(9) accepts an appointment as auditor of a company without first ascertaining from it whether the requirements of section 225 of the Companies Act, 1956 in respect of such appointment have been duly complied with;*

**Clause (1) of Part II of the Second Schedule:**

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

*(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;*

3.6. The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee in its meeting held on 25<sup>th</sup> July 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 Misconduct falling within the meaning of Clauses (8) and (9) of Part-I of the First Schedule and Clause (1) of Part-II 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:**

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

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S. No.	Particulars	Dated
1.	Date of Complaint in Form 'I' filed by the Complainant	18 <sup>th</sup> November 2020
2.	Date of Written Statement filed by the Respondent	Not Filed
3.	Date of Rejoinder filed by the Complainant	N.A.
4.	Date of Prima Facie Opinion formed by Director (Discipline)	21 <sup>st</sup> February 2023
5.	Written Submissions filed by the Respondent after Prima Facie Opinion	11 <sup>th</sup> January 2024 (CA. Mohit Jain)
6.	Declaration Received from the Respondent (CA. Sunil Jindal) informing that he is the member responsible for answering and representing in the above complaint/PFO/ hearing	09 <sup>th</sup> October 2025
7.	Written Submissions filed by the Complainant after Prima Facie Opinion	---

5. **Further Written Submissions filed by the Respondent4)-**

The Respondent vide email dated 11<sup>th</sup> January 2024, inter-alia, made the submissions which are given as under:-

- Allegations levelled by the complainant and the conclusions drawn by the Director (Discipline) are purely against the respondent firm. There is not even an iota of evidence or any instance on record from which it can be inferred that the respondent was involved in the acceptance of the impugned audit assignment.
- As on the date of appointment of the respondent firm as statutory auditor of the auditee company, he was one of the partners of the respondent firm, however, he was nowhere involved in the verification of records or in the issuance of any necessary certificate prior to the acceptance of the audit assignment. The only partner involved in completing the process of acceptance of the said audit assignment was CA Sunil Jindal. CA Sunil Jindal was the sole person in

correspondence with the said auditee company for acceptance of the said audit assignment.

- c. He (CA Mohit Jain) was a partner of the respondent firm only until 16.07.2020, whereas up to that date, neither had the audit report been prepared nor had the actual conduct of the audit been initiated. Further, until that date, even the first communication between the respondent firm and the complainant firm had not taken place, as the first mail sent by the respondent firm to the complainant firm was dated 30.08.2020.
- d. The complainant filed the complaint on 18.11.2020, i.e., well after the date on which the respondent had ceased to be a partner of the respondent firm.
- e. CA Mohit Jain should not be held responsible for professional misconduct in his personal capacity for the alleged wrongdoings of the respondent firm or of the engagement partner, CA Sunil Jindal, who acted wholly and solely on behalf of the respondent firm in respect of the impugned audit assignment.
- f. He was neither a party to the communication issued under Rule 8(1)(b), in response to which the respondent firm was required to disclose the name of the member responsible for answering the complaint, nor was he the engagement partner responsible for the acceptance of the impugned audit assignment, allegedly in contravention of the applicable statutes.
- g. With respect to the findings of the Director (Discipline) on the merits of the case, he is not in possession of the necessary information and documentary evidence relating to the impugned audit assignment. Accordingly, he expresses his inability to file detailed submissions on the merits of the case, as the only person in possession of the requisite information and documentary evidence to defend the matter on behalf of the respondent firm is CA Sunil Jindal.

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

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

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S. No.	Date of meeting(s)	Status
1	11 <sup>th</sup> December 2024	Adjourned at the request of the Respondents (CA. Mohit Jain & CA. Sunil Jindal)
2	09 <sup>th</sup> July 2025	CA. Mohit Jain was put on Oath. (CA. Sunil Jindal and CA. Dinesh Sharma were not present)
3	26 <sup>th</sup> September 2025	Part heard and adjourned (CA. Mohit Jain was present)
4	09 <sup>th</sup> October 2025	Part heard and Adjourned (CA. Mohit Jain and CA. Sunil Jindal along with their Counsel were present) (CA. Sunil Jindal was put on Oath)
5	16 <sup>th</sup> October 2025	Hearing concluded and decision taken

6.2 On the day of hearing held on 11<sup>th</sup> December 2024, the Committee noted that in the captioned case, the Complainant was not present despite notice of hearing duly served upon him. Further, the Counsels/Authorized representatives of Respondents (CA. Mohit Jain and CA. Sunil Jindal) vide two separate e-mails dated 10.12.2024 had sought an adjournment as they were recently engaged in the matter and hence needed time for preparation of submissions in this case. Acceding to the above request of the Counsels/ Authorized representatives of Respondent(s), the Committee adjourned the captioned case to a future date. With this, the case was adjourned to a future date.

6.3. On the day of hearing held on 09<sup>th</sup> July 2025, the Committee noted that the Respondent (CA. Mohit Jain) was present through VC and appeared before it. The Committee noted that the Complainant CA. Rajesh Khiwani vide e-mail dated 07/07/2025 has stated that he has already submitted the required documents pertaining to this case and have nothing more to add in this case and requested the Committee, to pass appropriate order in this matter.



- 6.4. The Committee noted that other Respondent (CA. Sunil Jindal) vide e-mail dated 05/07/2025 has submitted that his authorized Representative CA. Sumit Kansal could not attend the hearing on 09/07/2025 due to medical issues and hence sought adjournment. Further, another Respondent (CA. Dinesh Sharma) was not present despite the notice of meeting duly served upon him. Being first hearing of the case, the Respondent (CA. Mohit Jain) was put on Oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges against him and whether he pleads guilty. The charges as contained in prima facie opinion were also read out. On the same, the Respondent (CA. Mohit Jain) replied that he is aware of the charges and pleaded 'Not Guilty' to the charges levelled against him.
- 6.5. In the absence of other Respondents (CA. Sunil Jindal and CA. Dinesh Sharma) and in view of Rule 18(9) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee adjourned the case to a future date.
- 6.6. On the day of hearing held on 26<sup>th</sup> September 2025, Committee noted that the Respondent (CA Mohit Jain) along-with Counsel were present through VC and appeared before it. The Counsel for Respondent CA. Mohit Jain) submitted that Respondent No. 1 was not involved in the assignment as he had resigned from the firm on 16th July 2020, prior to the filing of Form ADT 1 on 19th September 2020. The Counsel emphasized that the appointment paperwork, including Form ADT 1 and other communications, occurred after his resignation. The Committee noted the submission that the Complainant had filed a withdrawal letter in 2021, but clarified that the Board of Discipline had decided to proceed with the case. The Committee noted the submissions of Respondent (CA. Mohit Jain) and adjourned the matter to allow further submissions and responses from all parties involved.
- 6.7. On the day of hearing held on 09<sup>th</sup> October 2025, the Committee noted that the Respondent (CA. Mohit Jain) along with his counsel were present through VC and Respondent (CA. Sunil Jindal) along with his counsel were present in person and appeared before it. The Committee noted that the Complainant had alleged that the Respondent approached them for a No Objection Certificate (NOC) nearly 11

months after accepting the audit assignment, with the appointment made on September 30, 2019, and the NOC sought via email on August 31, 2020. The counsel for Respondent (viz. CA Sunil Jindal) stated that the appointment was finalized only after seeking the NOC, and the ADT-1 form was filed on September 19, 2020, post the NOC request. The counsel for Respondent (CA Sunil Jindal) submitted that communication in writing was made to the previous auditor, as required under Clause 8 of Part 1 of the First Schedule. The Committee observed that while the communication was made, the NOC was not granted by the complainant; and that the auditors are permitted to proceed without an NOC if the previous auditor does not respond within a reasonable time. The Committee noted that the Complainant had further alleged that the Respondent firm accepted the audit assignment despite knowing that unpaid dues were owed to the complainant. The counsel for Respondent (CA Sunil Jindal) clarified that the unpaid dues were the responsibility of the client company and were cleared in February 2021, after the complaint was filed in November 2020. The counsel for Respondent submitted that the complainant's grievance was primarily related to the unpaid dues, which were later resolved amicably, as evidenced by the complainant's withdrawal letter for instant case issued in February 2021. The counsel for Respondent (CA Sunil Jindal) stated that the complainant's objections were primarily related to unpaid dues and not the legality of the appointment. The counsel for Respondent (CA Sunil Jindal) submitted that the complainant's term as the previous auditor had expired in 2019, and no special notice was required under Section 140(4) of the Companies Act, 2013, as the complainant was not a retiring auditor with this, the case was adjourned.

- 6.8. On the day of hearing held on 16<sup>th</sup> October 2025, the Committee noted that Counsel for the Respondent (CA. Sunil Jindal) was present through VC and appeared before it. Regarding first charge of communication in writing prior to appointment, the Counsel for Respondent (CA Sunil Jindal) stated that the required communication was made before filing ADT-1. On the third charge, the Counsel clarified that the complainant's tenure had already been fulfilled. Regarding the second charge, the Counsel presented an attested ledger document and supporting financial statements, including the balance sheet and profit and loss account, to demonstrate

that the audit fee for the statutory audit of A.Y. 2019-20 was paid in full. The Committee noted the submissions of the parties, and that the attested ledger and financial documents were taken on record.

- 6.9. Based on the documents/material and information available on record and the oral and written submissions made by the parties, and on consideration of the facts of the case, the Committee concluded the hearing in subject matter.

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

- 7.1 Before proceedings on merits of the case, the Committee noted that Complainant vide his letter dated 23.02.2021 requested to withdraw his Complaint against the Respondent Firm, stating that the outstanding fees amount which was pending with auditee Company had been received by him. However, the matter then was placed before the Board of Discipline at its 176th Meeting held on 15.09.2021 under the provisions of Rule 6 of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 and the same was dismissed by the Board of Discipline on the ground that the case needs to be examined as to whether the requirements of Section 225 of Companies Act 1956 / Section 140 of Companies Act, 2013 in respect of the Respondent firm's appointment have been complied with. Accordingly, the Board has not accepted the withdrawal in the case and directed the office to inform the parties to the case.
- 7.2 Thereafter, Disciplinary Directorate vide its letter dated 25.11.2021 intimated the same to the Respondent firm and asked to submit the declaration form duly signed by the member(s) answerable along with their Written Statement within 21 days of receipt of the letter. The Directorate vide its email dated 5<sup>th</sup> January 2022 sent a reminder mail to the Respondent's firm however, despite the said reminder, the Respondent firm failed to disclose the name(s) of member(s) answerable. Directorate vide its letter dated 26.05.2022 intimated the Respondent firm that since no reply has been received from their end, the matter is being proceeded to its next stage. And in the absence of declaration of the name(s) of member(s) answerable, all the partners shall be held responsible in terms of proviso to Rule 8(2) of the CA

Rules 2007. From the members' record of ICAI, it is seen that there were three partners during the period under consideration in the said firm namely (i) CA. Sunil Jindal (M. No. 513220) w.e.f 07.09.2009 till date (ii) CA. Mohit Jain (M. No. 543482) w.e.f 11.09.2018 till 16.07.2020 and (iii) CA. Dinesh Sharma (M. No. 535056) w.e.f 31.12.2017 till 16.07.2020 and therefore, all of them were regarded as member(s) answerable (hereinafter been jointly referred to as "**Respondents**").

7.3 During the hearing before the Committee, only two Respondent(s) namely CA. Mohit Jain and CA. Sunil Jindal along-with their Counsel(s) appeared before the Committee. The Committee noted that CA. Sunil Jindal vide letter dated 09/10/2025 declared himself member answerable in instant case. CA. Mohit Jain, during the hearing submitted that CA. Sunil Jindal, was only involved in this matter as he had accepted the subject audit assignment on behalf of Respondent Firm. He further referred to an e-mail dated 11/10/2020, addressed by Complainant firm to the Respondent firm, wherein for seeking No Objection, reference had been drawn to CA. Sunil Jindal. Moreover, he drew attention of the Committee to para 14 of complaint letter dated 12.11.2020, wherein, Complainant had requested to initiate action against CA. Sunil Jindal, Partner of the Respondent Firm only and there was no mention of other partners of the Respondent firm including CA. Mohit Jain and CA. Dinesh Sharma.

7.4 In view of above noted submissions of CA. Mohit Jain and declaration dated 09/10/2025 filed by CA. Sunil Jindal declaring himself as member answerable the Committee decided to consider, CA. Sunil Jindal, (hereinafter referred to as the Respondent) as member answerable in instant case and exonerated other members i.e. CA. Mohit Jain and CA. Dinesh Sharma in subject case. The Committee observed that CA. Mohit Jain and CA. Dinesh Sharma were ceased to be members of the Respondent firm w.e.f. 16/07/2020 and they both had no role in seeking No Objection Certificate from the Complainant and finalization/signing of Financial Statements of the Company, as these both members had already left the before acceptance of subject audit assignment of the Company. The Committee noted that



CA. Sunil Jindal was the member who was involved and had played active role in instant case.

7.5 The Committee thereafter noted that there are three charges against the Respondent in which he has been held Prima Facie Guilty and has been explained in para 2.1 above. Based upon various documents on record and submissions of the parties, the Committee noted that first allegation against the Respondent is that the Respondent had approached the Complainant for seeking No Objection Certificate long after his acceptance of the audit of the subject Company which was almost 11 months after the acceptance of said audit assignment, thereby violating the provisions as laid down by the ICAI.

7.6 The Committee perused the submissions of the Respondent and documents brought on record. The Committee noted that the Company had passed a resolution in its Annual General Meeting held on 30/09/2019, appointing the Respondent firm as Statutory Auditor under Section 139 of the Companies Act 2013 for five (5) years from the conclusion of AGM till the conclusion of AGM to be held on for the Financial Year ending 31/03/2024 in place of the Complainant firm, who retired in subject AGM after completing 5 years period.

7.7 Thereafter, the Committee noted that said appointment was intimated to the Respondent firm vide letter dated 30/09/2019. Further, CA. Sunil Jindal (the Respondent), vide letter dated 'Nil' had given the consent to act as Statutory auditor of the Company. After noting this, the Committee perused the Form No. ADT – 1, filed by the Company for the appointment of the Respondent as auditor with Registrar of Companies. On perusal of said Form, the Committee observed that same was filed by Mr. Parmod Kumar Verma, Director of the Company under his digital signature on 19/09/2020 along with the consent of the Respondent and resolution passed by the Company to this effect.

7.8 Further, the Committee referred to the documents brought on record, by the Complainant and noted that the Respondent had sought No Objection from the



Complainant firm vide its e-mail dated 31/08/2020 which had been acknowledged by the Complainant firm itself. The Committee noted that as per Clause (8) of Part I of the First Schedule; "A Chartered Accountant in practice shall be deemed to be guilty of professional misconduct if he: *accepts a position as auditor previously held by another chartered accountant or a certified auditor who has been issued certificate under the Restricted Certificate Rules, 1932 without first communicating with him in writing;*

7.9 In view of above, the Committee was of the view that appointment of the Respondent firm was made by the Company on 30/09/2019 in its Annual General Meeting and the Company had filed Form ADT – 1 with consent of the Respondent on 19/09/2020. It is therefore appears that the acceptance of audit was given by the Respondent on 19/09/2020. Further, as evident from the submissions of the Complainant and papers/documents on record, it is apparent that the Respondent had addressed a mail to the Complainant firm on 31/08/2020 much prior to acceptance of said audit assignment. Thus, subject allegation alleged by the Complainant is not maintainable against the Respondent.

7.10 In view of the above noted fact and findings, the Committee held the Respondent **NOT GUILTY** of Professional Misconduct" falling within the meaning of Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949 on this charge.

7.11 In respect of **second charge** that the Respondent has accepted the audit assignment despite knowing there were certain unpaid dues of the Complainant. In this context, the Committee noted the provisions of Council Guidelines No. 1-CA(7)/02/2008, dated 8th August 2008 which prohibit the acceptance of audit in case there existed outstanding dues of the previous auditor. Chapter VII of the said guidelines states as under:

*"A member of the Institute in practice shall not accept the appointment as auditor of an entity in case the undisputed audit fee of another Chartered Accountant for*

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*carrying out the statutory audit under the Companies Act, 1956 or various other statutes has not been paid."*

- 7.12 In view of submissions of the Respondent and documents brought on record by him i.e. ledger account of the Complainant firm in the books of the Company, the Committee observed that outstanding balance of the Complainant firm as on 31/03/2019 was Rs. 1,12,617/- and all the amount due to the Complainant firm was paid on 16/12/2019 by the Company and there was nothing due as on 31/03/2020. This fact was also confirmed/acknowledged by the Complainant firm stating that it had received Rs. 8,62,357/- partial payment from the Company. Moreover, the Complainant firm vide its withdrawal letter dated 23/02/2021 has confirmed to have received the fees due from the Company.
- 7.13 On the basis of the above facts and findings, the Committee was of the view that outstanding dues of the Complainant firm was paid by the Company on 16/12/2019 prior to the acceptance of audit by the Respondent and thus, this allegation is not maintainable against the Respondent.
- 7.14 In view of the above noted fact and findings, the Committee held the Respondent **NOT GUILTY** of Professional Misconduct" falling within the meaning of Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 on this charge.
- 7.15 As regards, last and **third charge** that the Respondent has accepted the position of auditor of the subject Company despite that the Company has not complied with the provisions of section 140(4), 146 etc. of the Companies Act, 2013 pertaining to serving of special notice to Complainant before removing as the auditor of the said Company.
- 7.16 The Committee noted the submissions of the Respondent in this respect, wherein he has submitted that Section 140 of the Companies Act, 2013 is applicable in case of removal of auditor and in subject case, his appointment was made in place of

retirement/completing the term by the Complainant firm and hence there was no requirement of special notice to be given to the Complainant firm.

7.17 After noting the submissions of the Respondent and documents on records, the Committee referred to the provisions of Section 140 of the Companies Act, 2013, which read as under:

***"140. Removal, resignation of auditor and giving of special notice -***

*(1) The auditor appointed under section 139 may be removed from his office before the expiry of his term only by a special resolution of the company, after obtaining the previous approval of the Central Government in that behalf in the prescribed manner.*

*Provided that before taking any action under this sub-section, the auditor concerned shall be given a reasonable opportunity of being heard.*

*(2) .....*

*(3) .....*

***(4) (i) Special notice shall be required for a resolution at an annual general meeting appointing as auditor a person other than a retiring auditor, or providing expressly that a retiring auditor shall not be reappointed, except where the retiring auditor has completed a consecutive tenure of five years or, as the case may be, ten years, as provided under sub-section (2) of section 139.***

*(4)(ii) On receipt of notice of such a resolution, the company shall forthwith send a copy thereof to the retiring auditor.*

*(4)(iii) Where notice is given of such a resolution and the retiring auditor makes with respect thereto representation in writing to the company (not exceeding a reasonable length) and requests its notification to members of the company, the company shall, unless the representation is received by it too late for it to do*

*so,—*

(a) in any notice of the resolution given to members of the company, state the fact of the representation having been made; and

(b) send a copy of the representation to every member of the company to whom notice of the meeting is sent, whether before or after the receipt of the representation by the company, and if a copy of the representation is not sent as aforesaid because it was received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the representation shall be read out at the meeting: Provided that if a copy of representation is not sent as aforesaid, a copy thereof shall be filed with the Registrar: Provided further that if the Tribunal is satisfied on an application either of the company or of any other aggrieved person that the rights conferred by this sub-section are being abused by the auditor, then, the copy of the representation may not be sent and the representation need not be read out at the meeting."

Further, it is seen that provision of Section 139 (2) of the Companies Act 2013 states as under:

**"Section 139 Appointment of Auditors**

Section 139(1) .....

Section 139 (2) No listed company or a company belonging to such class or classes of companies as may be prescribed, shall appoint, or re-appoint—

- (a) an individual as auditor for more than one term of five consecutive years; and
- (b) an audit firm as auditor for more than two terms of five consecutive years:

Provided that— (i) an individual auditor who has completed his term under clause (a) shall not be eligible for re-appointment as auditor in the same company for five years from the completion of his term;

(ii) an audit firm which has completed its term under clause (b), shall not be eligible for reappointment as auditor in the same company for five years from the completion of such term:

Provided further that as on the date of appointment no audit firm having a common partner or partners to the other audit firm, whose tenure has expired in

*a company immediately preceding the financial year, shall be appointed as auditor of the same company for a period of five years: Provided also that every company, existing on or before the commencement of this Act which is required to comply with provisions of this sub-section, shall comply with the requirements of this subsection within three years from the date of commencement of this Act: Provided also that, nothing contained in this sub-section shall prejudice the right of the company to remove an auditor or the right of the auditor to resign from such office of the company."*

Section 139(10) also states that; *"Where at any annual general meeting, no auditor is appointed or re-appointed, the existing auditor shall continue to be the auditor of the company."*

In view of above noted provisions of the Act, the Committee was of the view that Section 140 is applicable in case of removal, resignation of auditor before the expiry of his term. However, in subject case, the Complainant firm has completed its term of five years and had retired from the office of Statutory Auditor of the Company. Moreover, as regards Section 146 of the Companies Act, 2013, the Committee noted its provisions, which read as under:

***"Section 146. Auditors to attend general meeting.—*** *All notices of, and other communications relating to, any general meeting shall be forwarded to the auditor of the company, and the auditor shall, unless otherwise exempted by the company, attend either by himself or through his authorized representative, who shall also be qualified to be an auditor, any general meeting and shall have right to be heard at such meeting on any part of the business which concerns him as the auditor."*

In view of above provisions of Section 139(2), Section 140(4)(i) and Section 146 of Companies Act 2013, the Committee observed that Section 139(2) is not applicable to the subject Company since it is not a listed Company, thereby implying that the exception to section 140(4)(i) is not applicable to the subject Company.

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The Committee further noted that the Complainant has not corroborated said allegation with any documentary evidence, nor he has made any submissions in this respect. Further, it is the duty of the auditee Company to give notice of the Annual General Meeting to the retiring auditor to attend the AGM. As far as appointment of the Respondent is concerned, he had been duly appointed in Annual General Meeting of the Company on 30/09/2019 and the Company had filed Form No. ADT – 1 to this effect with Registrar of Companies on 19/09/2020. Thus, the Committee was of the view that the Respondent is **Not Guilty** in respect of this allegation.

7.18 In view of the above noted fact and findings, the Committee held the Respondent **NOT GUILTY** of Professional Misconduct” falling within the meaning of Clause (9) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

#### 8. Conclusion:

In view of the findings stated in above paras, vis-à-vis material on record, the Committee gives its charge wise findings as under:

Charges (as per PFO)	Findings	Decision of the Committee
Para 2.1 as given above	Paras 7.5 to 7.10 as given above	<b>NOT GUILTY</b> - Clause (8) of Part I of the of First Schedule
Para 2.2 as given above	Paras 7.11 to 7.14 as given above	<b>NOT GUILTY</b> - Clause (1) of Part II of the of Second Schedule
Para 2.3 as given above	Paras 7.15 to 7.18 as given above	<b>NOT GUILTY</b> - Clause (9) of Part I of the of First Schedule

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श्री. राजेश कुमार खिवाणी, दिल्ली  
श्री. स. पी. जिंदल & एशोसिएट्स (फ़र्न 020046N) नई दिल्ली  
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100, Market Street, New Delhi - 110 002 (India)  
100, Market Street, New Delhi - 110 002 (India)

9. In view of the above observations, considering the oral and written submissions of the parties and material on record, the Committee held the Respondent (CA. Sunil Jindal) **NOT GUILTY** of Professional Misconduct falling within the meaning of Clauses (8) and (9) of Part-I of First Schedule and Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

Order

10. 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. PRASANNA KUMAR D)  
PRESIDING OFFICER

Sd/-  
(MS. DAKSHITA DAS, IRAS {RETD.})  
GOVERNMENT NOMINEE

Sd/-  
(ADV. VIJAY JHALANI)  
GOVERNMENT NOMINEE

Sd/-  
(CA. MANGESH P KINARE)  
MEMBER

Sd/-  
(CA. SATISH KUMAR GUPTA)  
MEMBER

DATE: 23<sup>rd</sup> January 2026

PLACE: Noida

सत्यापित होने के लिए प्रमाणित / Certified to be True Copy  
मैनु गुप्ता / Manu Gupta  
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer  
अनुशासनात्मक निदेशालय / Disciplinary Directorate  
भारतीय सनदी लेखाकार संस्थान  
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ICAI Bhawan, C-1, Sector-1, Noida-201301 (U.P.)