CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2026-2027)]
[Constituted under Section 21B of the Chartered Accountants Act,1949]

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

File No:- [PR/577/2022/DD/407/2022/DC/1834/2023]

In the matter of:
Shri. Parth Merchant
I-17-18-19, Road No. 6(I/A),
GIDC, Sachin,
Surat, Gujarat-394230

.....Complainant

Versus

CA. Purvesh Ashish Choksi (M. No. 140258),

Present address:-	Address as per Prima Facie opinion:-
707, STALWART INSIGNIA UNIVERSITY ROAD NR HAPPY HOME SHANTINIKETAN **SURAT – 395007**	404, Sundaram Square, Opp. Hills Nursery School, Darji Sheri, **Nanpura, Surat,** **Gujarat-395001**

.....Respondent

MEMBERS PRESENT:

CA. Prasanna Kumar D, Presiding Officer (in person)
CMA Chandra Wadhwa, Government Nominee (in person)
CA. Mahesh Shah, Government Nominee (in person)
CA. Satish Kumar Gupta, Member (in person)
CA. Hans Raj Chugh, Member (in person)

DATE OF FINAL HEARING : 24th April 2026
DATE OF DECISION TAKEN : 25th July 2026
DATE OF PRONOUNCEMENT OF DECISION : 29th August 2026

PARTY PRESENT:
Respondent: CA. Purvesh Ashish Choksi (Through VC)

Counsel for Respondent: CA. Utsav Hirani (Through VC)

1. **Background of the Case:**

The Complainant has stated that the Respondent has certified three forms with respect to a private limited Company namely M/s Detox India Pvt Ltd (hereinafter referred to as "Company") i.e., BEN-2 (Return for declaration of beneficial ownership under section 90 of Companies Act, 2013 in respect of Mr. Chetan Chandrakant Bhai Contractor dated 21.08.2019) and DIR-12 (pertaining to resignation of Jutine Josephine Jill Lerche dated 02.11.2018).

2. **Charges in brief:**

2.1 That the Respondent had certified Form BEN-2 stating that board of directors has adopted resolution on 21.08.2019 to file and give him authority to certify the said form despite the fact that no such board meeting was held on that date as is evident from MGT-7.

2.2 That the Respondent has filed DIR-12 dated 02.11.2018 for resignation of Jutine Josephine Jill Lerche which resulted in illegal holding of office of director by him beyond the date of AGM (i.e., 29.08.2018) till 02.11.2018 in contravention to the requirement of Section 161 of the Companies Act, 2013.

3. **The relevant issues discussed in the Prima facie opinion dated 12th October 2023 formulated by the Director (Discipline) in the matter in brief, are given below:**

3.1 Regarding **first charge as mentioned in para 2.1 above,** upon perusal of the documents, it was observed that the Respondent had brought on record the Company's authorisation, through its representative Mr. Priyank Tuiwala, for filing BEN-2 by producing the email dated 05.08.2019 containing Form BEN-1 and the Respondent had also brought on record the list of shareholders along with their respective shareholding in the subject Company and M/s Saurashtra Enviro Projects Pvt Ltd as on 31.03.2019 in support of filing BEN-2.

3.2 However, it was observed that filing of BEN-2 required certification by a practicing professional, which in the present case had been the Respondent, stating that:

a. He had gone through the provisions of the Companies Act, 2013 and Rules thereunder;

b. He had verified the particulars and attachments from the original records maintained by the Company;

c. He had found them to be correct and complete; and

d. No material information had been suppressed.

3.3 Upon perusal of the aforesaid declaration, it was evident that the certifying professional had been expected to verify all contents and particulars of the form with the original documents/records of the Company. It had further appeared from the Respondent's submissions that he had merely relied upon documents received through email instead of verifying them from the original records of the Company, thereby making his declaration/certification misleading. It was also evident from Form MGT-7 filed by the Company that the Board Meeting had actually been held on 16.08.2019 and not on 21.08.2019. Therefore, the plea taken by the Respondent that the date of resolution had been erroneously and inadvertently captured as 21.08.2019 due to issues in external software had not sustained, as he had been required to exercise greater caution while certifying the form. Accordingly, the Respondent had been held Prima Facie **Guilty** under Clause (7) of Part I of the Second Schedule of the Chartered Accountants Act, 1949.

3.4 Regarding **second charge as mentioned in para 2.2 above**, the Respondent in his written statement stated that he had received an email dated 22.11.2018 from the Company containing resignation letter of Director namely Justine Josephine Jill Lerche and certified copy of resolution dated 02.11.2018 passed by the subject Company, which he had duly verified at the time of filing Form DIR-12. He had not carried out any Secretarial Audit of the Company, and his duty had been restricted only to filing Form DIR-12 for resignation of the said Director, and he had performed his duty completely and properly with due care. The Respondent had further stated that he had also sent the said form for signing to the authorised signatory of the subject Company and the Director of the Company namely Mr. Chetan Chandrakant Contractor had duly signed the form, thereby giving the Company's consent to submit the form online on MCA portal.

3.5 On perusal of Section 161 of the Companies Act, 2013, it was evident that the additional director, other than a person appointed as Director in the AGM, may be appointed by the Board of Directors (subject to powers conferred by Articles of the Company) at any time upto the date of next AGM or the last date on which AGM should have been held. In the present case, the AGM of the Company was reported by the Complainant to be held on 29.09.2018 which has also not been challenged by the Respondent. The Respondent has merely stated that he has not performed any secretarial work of the subject Company.

3.6 However, it was observed that filing of DIR-12 required certification by a practicing professional, which in the present case had been the Respondent.

"I declared that I have been duly engaged for the certification of this form. It is hereby certified that I have gone through the provision of the Companies Act 2013 and Rules thereunder for the subject matter of this form and matter incidental thereto and I have verified the above particulars (including attachments) from the original records maintained by the Company which is subject matter of this form and found them to be correct and complete and no information material to this form has been suppressed.

The said reports have been properly prepared and signed by the required officer of the Company as per the provisions of the Companies Act 2013 and were found to be in order".

3.7 On perusal of the aforesaid declaration of the Respondent, it was evident that the certifying professional had been expected to have gone through the original records of the Company so as to ensure compliance with the provisions of the Companies Act, 2013 and Rules thereunder for the subject matter of the said form i.e., DIR-12.

3.8 Thus, the plea taken by the Respondent that he had not done any secretarial work of the said Company had not stood, and he should have ensured that the provisions of the Companies Act had been followed, which he had failed to ensure. Further, as per the declaration submitted by the Respondent as quoted above, he had been required to ensure that he had been duly engaged for the said task by the Company. However, he could not produce any resolution of the Company or any appointment letter in his favour which might have proved that he had been duly engaged for the said task by the Company. Mere receipt of an email from any officer/Director of the Company and mere receipt of a form duly signed by one of the Directors of the Company could not have been said to be valid documents to substantiate the due appointment of the Respondent for the ROC filing work by the Company. Thus, the Respondent was held Prima Facie **Guilty** under Clause (7) of Part I of the Second Schedule of the Chartered Accountants Act, 1949.

3.9 Accordingly, the Director (Discipline) in his Prima Facie Opinion dated 12th October 2023 held the Respondent Prima Facie **GUILTY** of Professional Misconduct falling within the meaning of Clause (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.The said Clauses of the Schedule to the Act, states as under:

Clause (7) of Part-I of Second Schedule

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

x x x x x x

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

3.10. The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee in its meeting held on 14th December 2023. The Committee on consideration of the same, concurred with the reasons given against the charges and thus, agreed with the Prima Facie Opinion of the Director (Discipline) that the Respondent is **GUILTY** of Professional falling within the meaning of Clause (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

4. **Date(s) of Written Submissions/Pleadings by parties:**

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

S.No.	Particulars	Dated
1.	Date of Complaint in Form 'I' filed by the Complainant	12th July 2022
2.	Date of Written Statement filed by the Respondent	20th September 2022
3.	Date of Rejoinder filed by the Complainant	12th October 2022
4.	Date of Prima Facie Opinion formed by Director (Discipline)	12th October 2023
5.	Written Submissions filed by the Respondent after PFO	13th March 2024
6.	Document submitted by the Respondent	27th April 2026

5. **Further Written Submissions filed by the Respondent:**

The Respondent vide his letter dated 13.03.2024, inter-alia, made the submissions which are given as under: -

i. That in respect of the First Charge, the Respondent verified the original records of the company relating to the contents required for filing the alleged form and also requested scanned documents for record-keeping and form-filing purposes.

ii. That all communications were carried out with the company through email.

iii. That the discrepancy in the board resolution date occurred due to a technical glitch in the software. While generating Form BEN-2 through the software, the board resolution date was automatically fetched as the system date on which the form was extracted, i.e., 21/08/2019. However, the actual date of the board resolution was 16/08/2019, which has been duly mentioned in Form MGT-7 filed by the company for the said year.

iv. That no discrepancy was found with respect to the contents of Form BEN-2, either by the complainant or by the Registrar of Companies, Gujarat, and the form was duly approved by the ROC.

v. That none of the parties to this Complaint suffered any loss due to the said technical glitch in the computer software.

vi. That in respect of the Second Charge, Form DIR-12 was filed with the due approval of the Board of Directors.

vii. That the Respondent was not required to maintain the original records of the company.

viii. That from the extracts of the minutes of the Board Meetings dated 08/10/2018 and 26/10/2018, it is evident that the Board had granted leave of absence to Justine Josephine Jill Lerche for both meetings. Therefore, Justine Josephine Jill Lerche continued to be considered a director of the company for the Board Meetings held between the AGM date and the date of resignation.

ix. That on 02 November 2018, the company approached the Respondent with the resignation letter and a duly approved copy of the Board Resolution for giving effect to the resignation of Justine Josephine Jill Lerche from the directorship.

x. Further, during the period from 29/09/2018 to 02/11/2018, Justine Josephine Jill Lerche remained absent from the Board Meetings and did not participate in the decision-making process of those meetings.

xi. That no discrepancy was found with respect to the contents of Form DIR-12, either by the complainant or by the Registrar of Companies, Gujarat, and Form DIR-12 was duly approved by the ROC.

xii. That he had not committed any gross negligence in the performance of his duties.

5.2. The Respondent vide email dated 27th April 2026 submitted the copy of resolution passed at the AGM resolution held on 29/09/2018.

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:

S.No	Date of meeting(s)	Status
1	28th May 2024	Oath taken by Respondent and adjourned.
2	25th March 2026	Part heard and adjourned
3	24th April 2026	Hearing Concluded and findings reserved
4	25th July 2026	Decision taken

6.2. On the day of hearing on 28th May 2024, the Committee noted that the Respondent was present along with his Counsel before it through video conferencing. However, the Complainant was not present before it. Thereafter, the Respondent was administered on Oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges and charges against the Respondent were read out. On the same the Respondent replied that he is aware of the charges and pleaded Not Guilty to the charges levelled against him. 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 later date.

6.3 On the day of hearing on 25th March 2026, the Committee noted that Respondent along with Counsel(s) were present through VC and appeared before it. However, the Complainant was not present despite the fact that notice of the hearing was duly served upon him. Thereafter, the Committee noted that the case was part heard and the Respondent was already on oath. The Committee enquired from the Respondent that since the composition of the Committee had changed subsequent to the last hearing held on 28.05.2024 in this case, whether he wished to have a de-novo hearing by taking all submissions/representations already on record or may continue from the stage it was last heard. The Respondent opted for de-novo hearing and accordingly the Respondent was administered on Oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges against him and then the charges as contained in prima facie opinion were read out. On the same, the Respondent replied that he is aware of the charges and pleaded 'Not Guilty' to the charges levelled against them. The Committee directed the Respondent/Counsel for the Respondent to make the submissions. The Respondent requested next date of hearing to present the submissions. The Committee, acceding to the request of the Counsel for the Respondent, adjourned the subject case to a future date. With this, the case was part heard and adjourned.

6.4 On the day of hearing on 24th April 2026, the Committee noted that Respondent along with Counsel were present through VC and appeared before it. The Committee noted that the Complainant was not present for the hearing and notice of listing of the case has been served upon the Complainant. Despite that, the Complainant was not present in the hearing. The notice was also sent by post and by email to the Complainant. The Committee then decided that the matter be proceeded ex-parte the Complainant and considered on merits based upon the documents/material available on record. The Committee noted that the matter had previously been listed twice and the Complainant was absent on both times as well. The Counsel for the Respondent submitted that the Respondent was neither the statutory auditor, nor the compliance officer, nor the tax consultant of the company. His engagement was confined to certifying and filing certain forms, and there are two allegations at the prima facie stage relating to certification of Form BEN-2 and filing of Form DIR-12 concerning resignation of an Additional Director.

With respect to the first allegation, the Counsel submitted that the Respondent received an email dated 05th August 2019 from a company representative for filing of Form BEN-2. The Form was duly signed by the Directors of the Company. The Form was subsequently signed and uploaded on the MCA portal on 21st August 2019. The Counsel further submitted that the Form continues to remain approved on the MCA system with no rejection or adverse observation. All material particulars, including details of shareholding, names of directors, and addresses, were correctly disclosed and verified. The only discrepancy is that there was a mismatch in dates, where the Form reflected 21st August 2019 instead of the actual board meeting date of 16th August 2019. The Counsel argued that this was merely a procedural and technical error, not affecting the substance or validity of the Form and there was no gross negligence on the part of the Respondent.

With respect to the second allegation, the Counsel referred to Section 161(1) of the Companies Act, explaining that an Additional Director holds office only upto the date of the next Annual General Meeting (AGM), unless his appointment is regularized. In the present case, the Ms. Justine Josephine Jill Lerche, Additional Director of the company, ceased to be a director automatically on 29th September, being the date of the AGM, as his appointment was not regularized. The Respondent was later provided with a resignation letter dated 2nd November 2018 and was instructed by the company to file Form DIR-12 reflecting resignation under Section 168. The Counsel submitted that as per minutes of the board meeting dated 2nd November 2018, indicating the resignation of Ms. Justine Josephine Jill Lerche, Additional Director of the company, and another indicates that only two directors were regularized. The Committee noted the submissions of Counsel of the Respondent.

6.5. Based on the documents and material available on record and after considering the oral and written submissions of the Respondent, the Committee concluded the hearing in the matter and findings was reserved.

6.6. At the meeting held on 25th July 2026, the Committee noted that the subject case was heard by it at length in the presence of the Respondent and the hearing was concluded at its meeting held on 24th April 2026 and the Findings was reserved. The Committee considered the material on record including verbal and written submissions of the Respondent. The Committee deliberated in detail on the said case and took decision on the conduct of the Respondent.

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

The Committee noted the background of the case as well as oral and written submissions made by the Respondent, documents/ material on record and gives its findings as under: -

7.1. The Committee noted that there are two charges against the Respondent, as explained in paragraphs 2.1 and 2.2 above. Based on the various documents available on record and the submissions made by the Respondent, the Committee observed that the Respondent had certified two forms, namely: (i) Form BEN-2 pertaining to the declaration of Significant Beneficial Ownership under Section 90 of the Companies Act, 2013 in respect of Mr. Chetan Chandrakant Bhai; and (ii) Form DIR-12 relating to the resignation of an Additional Director of the Company, namely Mr. Justine Josephine Jill Lerche.

7.2. With regard to the **first charge**, the Committee noted that the Respondent had certified Form BEN-2 (i.e., return to the Registrar in respect of the declaration) declaring Mr. Chetan Chandrakant Bhai as the Significant Beneficial Owner of the Company.

7.3. On perusal of the Form BEN-2 certified by the Respondent, it was noted that the Director of the Company, Mr. Hiral Parimal Desai had given the following declaration:-

"To *the best of my knowledge and belief, the information given in this form and attachments is correct and complete. I have been authorized by board of directors' resolution dated 21/08/2019 to sign and submit this form."*

7.4. The Committed noted that the main contention of the Complainant is that the Respondent certified the declaration of the Director of the Company stating that he was authorized to file the said form pursuant to a Board Resolution dated 21.08.2019, whereas no meeting was held on such date. In this regard, the Committee noted the submission of the Respondent that he had received instructions from the Company through email dated 05/08/2019 along with supporting documents for filing of the said form and that the form had been duly signed by the authorised directors of the Company before filing on the MCA portal.

7.5. The Committee further noted the specific plea of the Respondent that discrepancy in the board resolution date occurred due to a technical glitch in the software. While generating Form BEN-2 through the software, the board resolution date was automatically fetched as the system date on which the form was extracted, i.e., 21/08/2019. However, the actual date of the board resolution was 16/08/2019, which has been duly mentioned in Form MGT-7 filed by the company for the said year. He further stated that the said form was duly approved by the ROC and no one has suffered any loss due to such typographical error.

7.6. In this regard, the Committee observed that except for the discrepancy in mentioning the date of Board Resolution, no material discrepancy in the contents of Form BEN-2 had been brought on record by the Complainant.

7.7. The Committee further noted that the Respondent was not acting as Statutory Auditor, compliance officer, nor the tax consultant of the Company and his engagement was confined to certification and filing of specific forms on the basis of records and representations furnished by the management. The material available on record did not establish any malafide intention or suppression of facts by the Respondent while certifying the form.

7.8. On overall consideration, the Committee noted that all material particulars contained therein had been duly verified and that the Form had been signed by the Directors of the Company prior to its filing on the MCA portal. The discrepancy pointed out pertained solely to an inadvertent error in the date mentioned in the Form, which is procedural and clerical in nature and does not, in any manner, affect the substantive contents, or validity of the filing. The Committee further observed that the said Form was duly taken on record by the MCA without any rejection or imposition of penalty, and there is no material on record to indicate any misrepresentation, malafide intent, or suppression of material facts on the part of the Respondent. In the view of the Committee, the Respondent had exercised reasonable care and due diligence while certifying the said Form, and the procedural lapse alleged cannot be construed as gross negligence or professional misconduct. Accordingly, the Committee decided to absolve the respondent of this charge and held the Respondent **'Not Guilty'** of Professional misconduct falling under the meaning of Clause (7) of Part I of the Second Schedule of the Chartered Accountants Act, 1949.

7.9. The Committee noted the **second charge** that the Respondent has filed DIR-12 dated 02.11.2018 for resignation of Justine Josephine Jill Lerche which resulted in illegal holding of office of director by him beyond the date of AGM (i.e., 29.08.2018) till 02.11.2018 in contravention to the requirement of Section 161 of the Companies Act, 2013.

7.10. The Committee noted that the Justine Josephine Jill Lerche was appointed as the Additional director of the Company on 29.05.2018 and was required to hold the office upto the date of the next annual general meeting or the last date on which the annual general meeting should have been held, whichever is earlier as per the provisions of Section 161 of the Companies Act, 2013 which is reproduced as under:-

"161. Appointment of additional director, alternate director and nominee director.—
(1) The articles of a company may confer on its Board of Directors the power to appoint any person, other than a person who fails to get appointed as a director in a general meeting, as an additional director at any time who shall hold office up to the date of the next annual general meeting or the last date on which the annual general meeting should have been held, whichever is earlier.
(2) ....
(3) ...."

7.11. On perusal of Form MGT-7 filed by the Company, it was observed that the Annual/Extraordinary General Meetings were held during the financial year 2018–19 on the following dates:–

(i) 24.05.2018
(ii) 29.05.2018
(iii) 29.09.2018
(iv) 15.10.2018

7.12. The Committee noted that the main contention of the Complainant is that Mr. Justine Josephine Jill Lerche was appointed in the general meeting held on 29.05.2018 and he should have hold the office only upto the next general meeting i.e. 29.09.2018 but he continued to hold office until 02.11.2018.

7.13. In this regard, the Committee noted the submissions of the Respondent that Form DIR-12 was filed with the due approval of the Board of Directors. On 02nd November 2018, the company approached the Respondent with the resignation letter and a duly approved copy of the Board Resolution for giving effect to the resignation of Justine Josephine Jill Lerche from the directorship. Further, during the period from 29/09/2018 to 02/11/2018, Justine Josephine Jill Lerche remained absent from the Board Meetings and did not participate in the decision-making process of those meetings. Moreover, no discrepancy was found with respect to the contents of Form DIR-12, either by the complainant or by the Registrar of Companies, Gujarat, and Form DIR-12 was duly approved by the ROC.

7.14. The Committee further noted that the Respondent brought on record, the copy of resolution of Annual General Meeting held on 29th September 2018 was passed for regularization of two other Additional Directors.

7.15. The Committee observed that, for the purpose of certifying Form DIR-12, the Respondent had relied upon the following documents: -

(a) Resignation letter of Mr. Justine Josephine Jill Lerche dated 02.11.2018.
(b) Resolution passed at the meeting of the Board of Directors of the Company held on 02nd November 2018.
(c) E-mails received from the Company.

7.16. The Committee noted that the Respondent had certified Form DIR-12 to give effect to the resignation as part of the procedural compliance requirements under the law based on relevant documents as stated in para 7.15 above.

7.17. The Committee noted that the role of the Respondent in the present matter was limited to certification and filing based upon records and documents provided by the Company and the Complainant has not bring any material on record to establish that the Respondent had knowingly facilitated continuation of office of the Additional Director.

7.18. On overall consideration, the Committee observed that the Respondent had acted on the basis of instructions and documents furnished by the Company, including the resignation letter and the relevant Board Resolution. The Respondent's role was confined to the filing and certification of the Form in accordance with the documents and information made available to him. The determination regarding the legal necessity or timing of the resignation fell within the domain of the management of the Company and the concerned company secretary. The Committee finds that the certification of Form DIR-12 by the Respondent under the provisions of the Companies Act was undertaken bonafide and on the basis of the records and representations placed before him, and there is no evidence to establish that the Respondent had knowingly contravened any statutory provision or failed to exercise the requisite degree of professional care and diligence. The Committee is therefore of the opinion that the actions of the Respondent were consistent with the scope of his engagement and the information and instructions provided by the Company. Accordingly, the Committee decided to absolve the respondent of this charge and held the Respondent 'Not Guilty' of Professional misconduct falling under the meaning of Clause (7) of Part I of the Second Schedule of the Chartered Accountants Act, 1949

8. Conclusion:

In view of the findings stated in above paras, vis-a-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 above	Para 7.2 to 7.8 as above	**Not Guilty-** Clause (7) of Part-I of Second Schedule.
Para 2.2 as above	Para 7.9 to 7.18 as above	**Not Guilty-** Clause (7) of Part-I of Second Schedule

9. In view of the above observations, considering the material on record including verbal and written submissions of the Respondent, the Committee held the Respondent **NOT GUILTY** of Professional Misconduct falling within the meaning of Clause (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.

10. ORDER

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/-
(CMA CHANDRA WADHWA)
GOVERNMENT NOMINEE

Sd/-
(CA. MAHESH SHAH)
GOVERNMENT NOMINEE

Sd/-
(CA. SATISH KUMAR GUPTA)
MEMBER

Sd/-
(CA. HANS RAJ CHUGH)
MEMBER

DATE: 29.08.2026

PLACE: Noida

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भारतीय सनदी लेखाकार संस्थान
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