

File No. PR/G/56/2022/DD/39/2022/DC/1680/2022

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2023-24)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

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

Ref. No. File No. PR/G/56/2022/DD/39/2022/DC/1680/2022

In the matter of:

Sh. K G Joseph Jackson,
ROC, Chennai
Ministry of Corporate Affairs
Shastri Bhawan, B-Wing, II Floor
26, Haddows Road
Chennai – 600 006

.....Complainant

Versus

CA. Puvanenthiran S N (M. No. 021724)
No.133, Sanjeevirayan, Koil Street
Old Washermanpet
Chennai – 600021

..... Respondent

MEMBERS PRESENT:

CA. Aniket Sunil Talati, Presiding Officer
Smt. Anita Kapur, Govt. Nominee
Dr. K. Rajeshwar Rao, Govt. Nominee
CA. Piyush C. Chhajer, Member

Date of Final Hearing: 23rd August 2023 through Video Conferencing

PARTIES PRESENT:

- (i) Shri Nikhil, Assistant ROC – the Complainant's Representative
- (ii) CA. Puvanenthiran S.N. – the Respondent
- (iii) Shri P. Vignesh Kumar – Counsel for the Respondent

(While (i) appeared from personal location (ii) and (iii) appeared from Chennai Office of the Institute)

Charges in Brief

1. The Committee noted that in the *Prima Facie* Opinion formed by Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Respondent was held *prima facie* guilty of Professional Misconduct falling within the meaning of Item (7) of Part-I and Item (3) of Part-II to Second Schedule to the Chartered Accountants Act, 1949.

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

"Does not exercise due diligence, or is grossly negligent in the conduct of his professional duties"

Item (3) of Part-II to Second Schedule states as under: -

"Includes in any information, statement, return or form to be submitted to the Institute, Council or any of its Committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing them to be false"

Brief background and allegations against the Respondent

2. In the extant case, the Registrar of Companies, Chennai (hereinafter referred to as '**the Complainant**' or '**the Complainant Department**') filed complaint against the Respondent stating that the Complainant Department had conducted enquiry under Section 206(4) of Companies Act, 2013 into the affairs of various companies/Individuals and the concerned professionals including M/s. S K Trading and that the Respondent had certified e-forms for the incorporation of M/s S K Trading Pvt. Ltd. (hereinafter referred as the "**Company**"), and the following allegations were made against him:

- (i) That, the Respondent had certified the signatures of the subscribers in relevant E-forms wherein the subscribers to the Memorandum of Association (MOA) were Sh. Suresh Kumar K., Sh. Dinesh Kumar and Ms. Sugantha K. having the same addresses (as per Form-32) who as per the Complainant were dummy directors and thus by witnessing the signatures of such subscribers for the Company, he facilitated the Chinese individuals/Entities in appointment of dummy Directors and Subscribers in the Company (C-2).

- (ii) Further, it was alleged that on physical verification of the registered office of the Company, it was found that no such address or the Company existed at such address (C-10).
- (iii) that the Respondent had wilfully/deliberately facilitated the Chinese nationals, connived with them, and incorporated the shell company for fraudulent activities,

It was noted that after due investigation by the Director (Discipline) in the matter, the Respondent was held prima facie guilty only in respect of charges (i) and (ii) above and accordingly the extant proceedings were limited to those charges.

Proceedings

3. During the hearing held on 23rd August 2023, the Committee noted that the Complainant's Representative and the Respondent along with his Counsel appeared before it for the hearing through video conferencing. Further, it was noted that the matter was part-heard and during the last hearing, the Committee directed the office to provide the Respondent's further Written Submissions in the matter to the Complainant's Representative for rejoinder on the same. It was noted that the said rejoinder had been submitted by the Complainant. The Committee asked the Complainant's representative to make his submissions on the matter. The Committee sought clarification on his submissions.

Based on the documents available on record and after considering the oral and/or written submissions of the parties concerned, the Committee concluded hearing in the matter.

Findings of the Committee

4. At the outset, it was alleged that during incorporation of the alleged Company, the Respondent had certified the signatures of the subscribers to the Memorandum of Association (MOA) who as per the Complainant were dummy directors and that on physical verification of the registered office of the Company, neither such address nor the Company on such address was found. The Committee noted that, in 2012, the alleged e-forms viz Form 18 (D-40 – D-41) and Form 32 (D-46 – D-50) were certified by the Respondent in his professional capacity under his digital signature.

4.1 It was noted that the Respondent in his submissions stated that his Digital Signature Certificate (DSC) was used without his consent to certify the alleged forms for incorporation of the Company. As per him, the DSC was obtained in his name without his permission and was misused. The Respondent claimed that someone had acquired his DSC using his credentials without his consent and knowledge and intentionally misused it. The Respondent pointed out that the e-mail id - babysuba@mail.com was used for obtaining the DSC and the said email ID did not belong to him, even the Directors were using the email id babysuba@email.com as reflected in their particulars stated in incorporation form. He further informed that at that point of time DSC was in pfx format and it was being provided to the applicant's e-mail id. The Respondent further submitted that his first legitimate DSC was obtained from "emudra" using the email address puvanandsenthil@rediffmail.com on 31-07-2012 and that he had been using said email address since 2003. As per the Respondent, the purported DSC was obtained in June 2010 and remained valid until June 2012. He contended that he had never used any DSC for personal or professional purposes during the alleged period. The Respondent also submitted that he had filed a formal complaint with the National Cyber Crime authority regarding the unauthorized acquisition and misuse of his DSC.

It was noted that the Respondent had vehemently denied his role in the entire episode and stressed before the Committee for tracking IP address associated with Form 18 and Form 32 through which the purported filings were carried out for S.K. Trading Pvt. Ltd. Further, based on the Google search by the Respondent, it was pointed out by the Respondent before the Committee that several companies were connected to the email address "babysuba@gmail.com," indicating potential unauthorized use. The Respondent further informed the Committee that he began certifying ROC forms with his own Digital Signature Certificate (DSC) in the FY 2011-2012. At that point of time, he had a single corporate client, M/s. Shri Lakshmi Agro Foods Pvt. Ltd., while other clients were non-corporate entities.

4.2 When the Respondent was asked to explain the chronology of events that took place from the date when he came to know of issue of usage of Digital Signature Certificate (DSC) in his name and subsequent steps taken by him to curb misuse of the same and also reason for delay in filing complaint regarding misuse of purported DSC, the Committee noted that M/s S K Trading Pvt. Ltd. was incorporated in April 2012 (Form 18; D-40 to D-45, Form 32; D-46 to D-60 and Form No. 1; D-61 to D-78). As per the Respondent, he came to know about the incorporation of the Company using his DSC on receipt of Complaint against him from the Disciplinary Directorate on 1st March 2022. However, since alleged Form 18 and Form 32 were not attached to the said complaint, he simply denied having incorporated any such company before Director (Discipline). It

was only on receipt of letter on 16th December 2022 along with copies of Form 1, Form 18 & Form 32 of M/s. S.K. Trading Pvt. Ltd., he scrutinized the Form 18 and Form 32, and realized that someone had obtained the DSC in his name without his knowledge and consent and also misused the DSC in certifying Form 18 & Form 32 of M/s. S.K. Trading Pvt. Ltd. Immediately thereafter, the Respondent filed a complaint with National Cyber Crime on 25.12.2022 with Ack No. 22912220070463 and also informed the Complainant about said misuse.

4.3 In view of the Respondent's submissions, the Committee directed the Complainant to ascertain the IP address through which alleged e-forms were filed with the concerned Registrar of Companies (RoC) along with an examination of the same for supporting the allegation made against the Respondent. It was noted that the Complainant Department's technical team's found disparity between the IP address used for the alleged fraudulent activities and the IP address associated with the Respondent. On review of details submitted, the Committee appreciated the said details as extracted by the technical team of Complainant Department. It was noted that based on information collected, the Complainant's Representative reaffirmed before the Committee that the IP address which was generally used by the Respondent to certify e-forms by using his digital signatures did not match with the IP address which was used for certification of Form 18 and Form 32 for the incorporation of M/s S K Trading Pvt. Ltd which supported the Respondent's submission about misuse of the DSC in his name for certifying Form 18 & Form 32 of M/s. S.K. Trading Pvt. Ltd.

4.4 The Committee also noted that after receipt of said information, the Respondent had indeed taken appropriate measures to curb the said misuse by filing complaint with National Cyber Crime authority about the unauthorized acquisition and misuse of DSC in his name which showed a genuine concern for addressing the issue. He had also written to the Complainant Department to curb potential misuse. Further, the presence of email address ("babysuba@gmail.com") in connection with various companies, as highlighted by the Respondent, suggested a pattern of potential misuse. It was noted that the Respondent had obtained the DSC from "emudra" using his authentic email address on July 31, 2012, whereas the alleged e-forms were certified using a purported DSC before the said date. Accordingly, it clearly indicated a timeline that aligned with the Respondent's assertion of non-participation in the alleged fraudulent activities. Accordingly, upon overall examination of facts and documents brought on record, the Committee viewed that the Respondent was **Not Guilty** under Item (7) of Part I and Item (3) of Part-II of the Second Schedule to the Chartered Accountants Act, 1949.

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Conclusion

5. Thus in conclusion, in the considered opinion of the Committee, the Respondent is **Not Guilty** of professional misconduct falling within the meaning of Item (7) of Part I and Item (3) of Part-II to Second Schedule to the Chartered Accountants Act, 1949.

6. 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 Order for closure of this case.

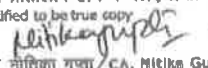
Sd/-
[CA. Aniket Sunil Talati]
Presiding Officer

Sd/-
[Smt. Anita Kapur]
Member (Govt. Nominee)

Sd/-
[Dr. K. Rajeshwar Rao]
Member

Sd/-
[CA. Piyush S Chhajed]
Member

Date: 3rd October, 2023
Place: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

सीए नितिका गुप्ता / CA. Nitika Gupta
सहायक निदेशक / Assistant Director
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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