



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

DISCIPLINARY COMMITTEE [BENCH-III (2024-2025)]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007

PR-G/651/2022/DD/538/22/DC/1741/2023

In the matter of:

Dr. Avais Patwegar,
Dy. ROC, Karnataka
Ministry of Corporate Affairs
Kendriya Sadan,
2nd Floor, E Wing,
Koramangala
Bangalore– 560034

.....Complainant

Versus

CA. Raghunathan R (M. No. 024201)
Plot No 108,
SRI Thirumal Nagar,
Tirupanikarisalkulam,
Vaduganpatti PO
Tirunelveli – 627010

....Respondent

MEMBERS PRESENT:

CA. Charanjot Singh Nanda, Presiding Officer (Present in Person)
Smt. Anita Kapur, Government Nominee (Present through Video Conferencing Mode)
Dr. K. Rajeswara Rao, Government Nominee (Present through Video Conferencing Mode)
CA. Piyush S. Chhajed, Member (Present in person)

Date of Hearing : 19th March 2024

Date of Order : 8th May, 2024

1. That vide findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 dated 25th July 2023, the Disciplinary Committee was, inter-alia, of the opinion that **CA. Raghunathan R (M. No. 024201)** (hereinafter referred to as the “Respondent”) was **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

2. That charge against the Respondent was that he certified the subscriber sheet of MOA/ AOA in the capacity of witness without meeting with the subscribers/ first directors of the M/s Logerak Infotech Private Limited (hereinafter referred to as '**Company**') Further, the Respondent certified SPICE+, SPICE MOA and SPICE AOA of the Company based on documents received through e-mail and had failed to verify original documents before attaching to the e-forms. Hence, the Respondent is grossly negligent in the conduct of his professional duties while certifying incorporation documents of the Company.
3. That pursuant to the said findings, an action under Section 21B(3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and a communication was addressed to him thereby granting an opportunity of being heard in person/through video conferencing and to make representation before the Committee on 19th March 2024.
4. The Committee noted that on the date of hearing held on 19th March 2024, the Respondent was present through Video Conferencing Mode and made his verbal submissions on the findings of the Disciplinary Committee. The Committee noted that the Respondent reiterated his previous submissions and admitted his mistake in the matter.
5. The Committee considered the reasoning as contained in the findings holding the Respondent Guilty of professional misconduct vis-à-vis written and verbal representation of the Respondent made before it.
6. Keeping in view the facts and circumstances of the case, material on record including verbal and written representations on the findings, the Committee is of the view that misconduct on the part of the Respondent has already been established in its findings wherein it was found that the Respondent was grossly negligent while certifying the e-Forms SPICE+MOA and SPICE+ AOA for incorporation of M/s Logerak Infotech Private Limited as the Respondent had signed the same in the capacity of witness wherein it was specifically mentioned that the said Forms were signed by the subscribers in his presence however he had never met the said subscribers. Further the documents submitted with the said forms did not meet the requirements of applicable rules as laid in Rule 38 (7) read with Rule 25 (2) of the Companies (Incorporation) Rules, 2014. Moreover, the Respondent had also declared in the said Form to have personally visited the premises whereas he admitted that he never complied the said requirement. This conduct of the Respondent constitutes Professional Misconduct as per Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. Hence the professional misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 25th July 2023 which is to be read in conjunction with the instant Order being passed in the case.
7. The Committee, hence, viewed that the ends of justice will be met if appropriate punishment commensurate with his professional misconduct is given to him.
8. Accordingly, the Committee, upon considering the nature of charge and the gravity of the matter ordered that the name of **CA. Raghunathan R (M.No. 024201) be removed from Register of Members for a period of 90 (ninety) days and a fine of Rs. 20,000/- (Rupees Twenty Thousand only) be imposed upon him, to be paid within 90 days of the receipt of the order**



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and in case of failure in payment of fine as stipulated, the name of the Respondent be removed for a further period of 30 days from the Register of Members.

Sd/-

(CA. CHARANJOT SINGH NANDA)
PRESIDING OFFICER

Sd/-

(SMT. ANITA KAPUR)
GOVERNMENT NOMINEE

Sd/-

(DR. K. RAJESWARA RAO)
GOVERNMENT NOMINEE

Sd/-

(CA. PIYUSH S CHHAJED)
MEMBER

DATE : 8th May, 2024

PLACE: New Delhi

CONFIDENTIAL

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

Findings under Rule 18(8) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

Ref. No.: PR-G/651/2022/DD/538/22/DC/1741/2023

In the matter of:

**Dr. Avais Patwegar,
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....Respondent

MEMBERS PRESENT:

**CA. Aniket Sunil Talati, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
CA. Piyush S Chhajer, Member
CA. Sushil Kumar Goyal, Member**

Date of Final Hearing: 4th July 2023 through Video Conferencing

PARTIES PRESENT:

- (i) Dr. Avais Patwegar, Dy. ROC – Complainant's Representative
- (ii) CA. R Raghunathan – the Respondent
- ((i) appeared from personal location and (ii) 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 of Second Schedule to the Chartered Accountants Act, 1949. The said Item to the Schedule states as under:

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Part I of 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—

...

“(7) Does not exercise due diligence, or is grossly negligent in the conduct of his professional duties”

Brief background and allegations against the Respondent

2. The extant matter pertains to incorporation of M/s Logerak Infotech Private Limited (hereinafter referred to as “Company”) which as per the Complainant was the Company with suspicious conduct.

In the aforesaid background, it has been against the Respondent that before incorporating the Company, the Respondent (C-2) had not duly discharged his professional duties as

- (i) the Respondent had certified the subscriber sheet of MOA/ AOA without meeting with the subscribers/ first directors of the Company and that he had also not verified original documents before attaching to the e-forms (C-2). Further, the First Directors had obtained DIN based on such false certification.
- (ii) That during physical verification conducted by the Complainant’s Department the Company was not found at its registered office address (C-3).
- (iii) That the said Company was involved in Micro Instant Loan App Scam (C-3).

It was noted that the Respondent had certified SPICE+ Form **(C-16 to C-31)** of M/s Logerak Infotech Private Limited in his professional capacity and SPICE + MOA **(D-8 to D-11)** and SPICE+ AOA **(D-12 to D-22)** of the said Company in the capacity of witness based on which the Company was incorporated. The Committee also noted that after due investigation by Director (Discipline) in the matter, the Respondent was held *prima facie* guilty only in respect of allegation (i) and (ii) and accordingly the extant proceedings were limited to them.

Proceedings

3. During the hearing held on 4th July 2023, the Committee noted that the Complainant's Representative and the Respondent appeared through video conferencing before it for hearing. Thereafter, the Respondent gave a declaration that there was nobody else present in the room from where he was appearing and that he would neither record nor store the proceedings of the Committee in any form.

Being first hearing, the Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wished the charge(s) to be read out or it could be taken as read. The Respondent stated that he was aware of the allegation(s) raised against him and the same might be taken as read. On being asked as to whether the Respondent pleaded guilty, he replied that he pleaded guilty.

Based on the documents available on record and after considering the oral and/or written submissions made by both the parties before it, the Committee concluded hearing in the matter.

Findings of the Committee:

4. It has been alleged that the Respondent certified SPICe form of the Company and assisted in its incorporation by certifying SPICE + MOA (D-8 to D-11) and SPICE+ AOA (D-12 to D-22) despite there being discrepancies.

4.1 In the first allegation, it was alleged that subscriber sheet of MOA/ AOA was signed by the Respondent in the capacity of witness without meeting with the subscribers/ first directors of the Company. It was noted that the Respondent had accepted that he had collected all the documents online through email and after verification of the same, he incorporated the Company.

It was, further, noted that the Complainant Department had brought on record Copy of Statement on Oath given by the Respondent, wherein Q-8 put forth and his response was produced below:

"Q.8 Have you personally seen or spoken to any of the directors/ subscribers of these companies? Have you verified the original documents of the directors and subscribers? How did you certify the details furnished in the SPICe/ Incorporation e-forms and attachments are found to be true and correct and complete without verifying the original documents of the directors and subscribers including the Chinese documents/ passports, KYC documents, signature verifications etc?."

Ans: Based on documents received by mail, certification was done."

4.1.1 On perusal of SPICE+MOA (**D-8 to D-11**) and SPICE+ AOA (**D-12 to D-22**), it was observed that the Respondent had signed the same in the capacity of witness wherein it was specifically mentioned that the said Forms were signed by the subscribers in his presence. However, it was evident from his submission that he had never met the said subscribers, hence, it was evident that the Respondent had intentionally furnished a false declaration which has also been admitted by the Respondent. Accordingly, it was viewed that the Respondent was gross negligent in performing his professional duties with respect to acting as witness to first subscribers to MoA and AoA. Hence, the Respondent was held Guilty of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

4.2 With respect to the allegation relating to registered office, it was noted that the Respondent was alleged to have certified in SPICE+ Form (C-16 to C-31) of the Company details of its registered office which, later on, was physically verified by the Complainant Department and the Company was not found at the said address. It was noted that the Respondent had admitted having relied upon the documents as received over e-mail, but the said documents contained invalid sub-lease agreement as the last page of that agreement (**D-34**) was signed by only one party i.e., directors of the Company whereas every page of the sub-lease agreement was required to be signed by both parties. Further, there was no document on record to establish that the party - M/s Bricspaces Private Limited from which the said office was taken on sub-lease was entitled to further sub-lease the said property. Accordingly, it was noted that the available documents did not meet the requirements of applicable rules as laid in Rule 38 (7) read with Rule 25 (2) of the Companies (Incorporation) Rules, 2014 stating as under

“38. Simplified Proforma for Incorporating Company for Electronically Plus (SPICE+)

(1) ...

(7) A company using the provisions of this rule may furnish verification of its registered office under sub-section (2) of section 12 of the Act by filing SPICE+ (Simplified Proforma for Incorporating company Electronically Plus: INC-32 FORM No. INC-32 (SPICE) in which case the company shall attach with such SPICE+ (Simplified Proforma for Incorporating company Electronically Plus: INC-32 FORM No. INC-32 (SPICE), any of the documents referred to in sub-rule (2) of rule 25”

“25. Verification of registered office. - (1) ..

(2) There shall be attached to said Form, any of the following documents, namely:-

(a) the registered document of the title of the premises of the registered office in the name of the company; or

(b) the notarized copy of lease or rent agreement in the name of the company along with a copy of rent paid receipt not older than one month;

(c) the authorization from the owner or authorized occupant of the premises along with proof of ownership or occupancy authorization, to use the premises by the company as its registered office; and

(d) the proof of evidence of any utility service like telephone, gas, electricity, etc. depicting the address of the premises in the name of the owner or document, as the case may be, which is not older than two months.”

Moreover, it was noted that the Respondent had also declared in the said Form to have personally visited the premises which he had submitted to have never complied with.

4.3 In the light of above facts as well as the fact that the Respondent had accepted guilt in the matter, the Committee viewed that the Respondent was grossly negligent while certifying the alleged Forms for incorporation of M/s Logerak Infotech Private Limited. Accordingly, the Respondent was Guilty for Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Conclusion:

5. Thus in conclusion, in the considered opinion of the Committee, the Respondent is GUILTY of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.

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

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

**Sd/-
[CA. Piyush S Chhajed]
Member**

**Sd/-
[CA. Sushil Kumar Goyal]
Member**

**Date: 25th July, 2023
Place: New Delhi**