



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/450/2022/DD/388/2022/DC/1769/2023

In the matter of:

Shri Jayant Arya,
Registrar of Companies, Goa,
Office of Registrar of Companies, Goa,
Daman and Diu cum Official Liquidator,
Ministry of Corporate Affairs,
Daman and Diu, Govt. of India,
Corporate Bhawan, EDC Complex, Plot No.21,
Patto, Panaji
GOA - 403001

.....Complainant

Versus

CA. Piyush Dadhich (M.No.231485)
GF 3-A, Sai Vihar Apartments,
Old Manipal Hospital Road,
Pattenagere Village, Rajarajeshwari Nagar,
BANGALORE - 560098

..... 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 22nd December 2023, the Disciplinary Committee was, inter-alia, of the opinion that **CA. Piyush Dadhich (M.No.231485)** (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 had uploaded/ filed Balance Sheet of the M/s NITP Marketing Services Private Limited (hereinafter referred to as “**the Company**”) for the financial year 2018-19 through e-form AOC-4 without signatures of the Directors and auditors of the Company. The next charge is that the Respondent had certified filing of e-form INC-22 for the Company without personally verifying the registered office of the Company. Hence, the Respondent is grossly negligent in the conduct of his professional duties while certifying the above mentioned e-forms.

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 in his submissions had, inter-alia, submitted as under:

- a. That the registered address of the Company was visited by the Complainant on 1st April 2022; however, the form INC-22 was certified by him in the year 2019.
- b. That the Complainant was informed by the residents therein on the day of their physical verification that the Company was in existence at the said place two years back, and he had provided services to the Company until March 2020. Hence, if the Company had changed its registered office after that, then he should not be held responsible for that.
- c. He had not personally verified the registered address at the time of certifying the form INC-22.

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 viewed that the Respondent had uploaded the unsigned documents along with e-form AOC-4 on the MCA Portal of M/s NITP Marketing Services Private Limited, indicating a failure to exercise due diligence on his part. It is further noted that the Respondent had certified the e-form INC-22 with respect to the Company, declaring that he had personally visited the registered office; however, the Committee found that the said declaration was false, as the Respondent himself admitted to merely relying on the rental agreement and the utility bill provided by the Company. Further, the Respondent had admitted his lapses before the Complainant Department in his Statement on Oath wherein he stated that he has not received the signed Balance Sheet either before or after uploading the AOC-4. He also stated that the registered office was not visited by him personally. It was, accordingly, viewed that the Respondent had failed to exercise due diligence while performing his professional duties and hence, the Respondent was guilty of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.



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7. Professional misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 22nd December 2023 which is to be read in conjunction with the instant Order being passed in the case.
8. The Committee, hence, viewed that the ends of justice will be met if appropriate punishment commensurate with his professional misconduct is given to him.
9. Accordingly, the Committee upon considering the nature of charges and the gravity of the matter ordered that the name of **CA. Piyush Dadhich (M.No.231485)** 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 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(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

Ref. No.: PR/G/450/2022/DD/388/2022/DC/1769/2023

In the matter of:

Shri Jayant Arya,
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BANGALORE - 560098

..... Respondent

MEMBERS PRESENT:

CA. Aniket Sunil Talati, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
CA. Sushil Kumar Goyal, Member (Present through Video Conferencing)
CA. Piyush S Chhajed, Member

Date of Final Hearing: 3rd October 2023

PARTIES PRESENT:

- (i) Smt. Sweta Naik, JTA – the Complainant's Representative
 - (ii) CA. Piyush Dadhich – the Respondent
- (Both appeared from personal location through Video Conferencing)

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:

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 M/s NITP Marketing Services Private Limited (hereinafter referred to as “**the Company**”) in context of which the following allegations have been made against the Respondent:

- (i) that he had uploaded/ filed Balance Sheet (**C-23 to C-30**) of the Company for the financial year 2018-19 through e-form AOC-4 (**C-4 to C-17**) without signatures of the Directors and auditors of the Company, and
- (ii) that the Respondent had filed e-form INC-22 (**C-48 to C-49**) for the Company certifying that he had personally visited the registered office of the Company. However, on physical verification of the registered office of the Company conducted by the Complainant's Department, no such Company was found at such given registered address.

Proceedings

3. During the hearing held on 3rd October 2023, the Committee noted that the Complainant's Representative as well as the Respondent were present before it for a hearing. Thereafter, they made a declaration that there was nobody else present in the room from where they were appearing and that they would neither record nor store the proceedings of the Committee in any form.

The Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wished the charges to be read out or it could be taken as read. The Respondent stated he was aware of the allegations raised against him and the same might be taken as read. On being asked as to whether the Respondent pleaded guilty, he pleaded not guilty and opted to defend the case against him. The Committee asked the Respondent to make his submissions. The Committee examined the Respondent on his submissions. The Complainant thereafter made certain submissions on the facts of the matter. Thereafter, the Respondent made final

submissions in the matter. The Committee gave an opportunity to the Respondent to submit in writing his final submissions to which the Respondent stated to have already made.

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

Findings of the Committee

4. At the outset, it was noted that the Respondent was stated to have uploaded/ filed Balance Sheet of the Company for the financial year 2018-19 through e-form AOC-4 despite there being no signature of auditor or that of Directors in the audit report and/or financial statements of the said period. Further, he was alleged to have certified INC-22 thus certifying the registered office address of the Company whereas the Complainant Department, on physical verification, did not found the same. Thus, the Respondent was alleged to have failed to exercise due diligence.

4.1 As regards uploading/ filing of Balance Sheet of the Company for the financial year 2018-19 through e-form AOC-4, it was noted that the Complainant Department had brought on record a copy of e-form AOC-4 certified by the Respondent **(C-4 to C-17)** wherein he had declared to have verified the particulars (including attachments (s)) from the original records maintained by the Company when he declared as under: -

*"I declare that I have been duly engaged for the purpose of certification of this form. It is hereby certified that I have gone through the provisions of The Companies Act, 2013 and rules thereunder for the subject matter of this form and matters incidental thereto and **I have verified the above particulars (including attachments (s)) from the original records maintained by the Company/applicant** which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed. I further certify that:*

- 1. The said records have been properly prepared, signed by the required officers of the Company and maintained as per the relevant provisions of The Companies Act, 2013 and were found to be in order;**
- 2. All the required attachments have been completely and legibly attached to this form;**
- 3. It is understood that I shall be liable for action under Section 448 of the Companies Act, 2013 for wrong certification, if any found at any stage."**

4.2 It was, further, noted that the Complainant Department had brought on record a copy of Statement on Oath **(D-8 to D-11)** given by the Respondent, wherein Q-10 (a, b and c) **(D-10)** put forth and his response thereon is produced below: -

“Q.10 As per Balance Sheet filed by the Company in AOC-4 vide SRN R21746649, there are no signatures present in the Balance Sheet. In this regard, please answer the following questions:

a. Was the balance sheet duly signed by the Directors and Auditor given to you for uploading?

Reply of the Respondent: The Balance Sheet was not signed by the directors and Auditors before uploading. However, UDIN was generated by mentioning, 30th September as the date of signing. And the AGM was fixed on 20th November, 2019, post which AOC-4 has to be filed within 30 days. So, ROC form was filed on 4th December, 2019 within the due date.

b. Have you ever received or seen the balance sheet of the Company signed by the Directors and the Auditor in your Capacity as the Certifying Professional of the Company before or after uploading of AOC-4?

Reply of the Respondent: No, the signed Balance Sheet is not received before or after uploading the AOC-4.

c. If your reply to above question is No, was the unsigned Balance Sheet uploaded by the Company without the knowledge/ Consent of the Auditor.

Reply of the Respondent: After the audit, the UDIN was generated and the signing date of the Balance Sheet was 30th September, 2019. The UDIN was also mentioned on the Balance Sheet before the uploading of the AOC-4. So, we believe there is a consent of the Auditor and there is no change in the Balance Sheet, as compared to the one based on which UDIN was generated.”

From above, it was noted that the Respondent had uploaded/ filed the Balance sheet of the Company despite there being no signature of auditor or that of Directors in the audit report and/or financial statements of the said period.

4.3 It was also noted that financial statements would be duly authenticated only when the same was duly signed by directors of the Company (after approval of Board of Directors) as per the requirement of Section 134 of Companies Act, 2013. It was, thereafter, submitted to the auditor for expressing his audit opinion thereon. In this regard, relevant extract of Section 134 of Companies Act, 2013 reads as under:

“Section 134: Financial Statement, Board’s report, etc.

1. The financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director, if any, and the Chief Executive Officer, the Chief Financial Officer and the Company Secretary of the company, wherever they are appointed, or in the case of One Person Company, only by one director, for submission to the auditor for his report thereon."

4.4 The Committee noted that in extant matter the Respondent had admitted that he had uploaded/ filed the Balance Sheet which was neither signed by the directors nor the Auditor had expressed opinion thereon. Since, the auditor had generated UDIN by mentioning, 30th September 2019 as the date of signing and the AGM was fixed on 20th November 2019, post which AOC-4 had to be filed within 30 days, therefore, he filed AOC-4 on 4th December, 2019 within the due date. It was viewed that effectively the Respondent had uploaded the unverified and unauthenticated documents on MCA Portal which signifies that he failed to exercise due diligence on his part. Thus, the Committee viewed that 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 in respect of instant allegation.

5. As regards physical verification of the registered office of the Company, it was noted that the Respondent had certified to have personally visited the registered office of the Company certified in the form INC-22 (**C-48 to C-49**) when he declared as under: -

"...I have been duly engaged for the purpose of certification of this form. It is hereby also certified that I have gone through the provisions of the Companies Act, 2013 and rules thereunder for the subject matter of this form and matters incidental thereto and I have verified the above particulars (including attachments(s)) from the original / certified records maintained by the applicant which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed..."

"...I further declare that I have personally visited the premises of the proposed registered office given in the form at the address mentioned therein above and verified that the said proposed registered office of the Company will be functioning for the business purposes of the Company..."

5.1 It was, further, noted that the Complainant Department had brought on record Copy of Statement on Oath (**D-8 to D-11**) as given by the Respondent, wherein the extract of Q-12 (**D-11**) put forth and his response thereon was produced as below: -

"Q.12 Did you do the compliance as stated in Para no 3 of certificate by practising Professionals in e-Form INC- 22 SRN R21728522?"

Reply of the Respondent: No, the registered office was not visited personally. Since the office address was in Goa, I could not visit the office.

From the above, it was noted that the Respondent had admitted having not personally visited the registered office of the Company as it was situated at Goa. It was noted that the Respondent had during hearing reiterated his submissions stating that he had relied on the rental agreement and the utility bill, provided by the Company.

5.2 It was also noted that the Respondent had filed form INC-22 **(C-48 to C-49)** with respect to the Company pursuant to Section 12(2) & (4) of the Companies Act, 2013 and Rule 25 and 27 of the Companies (Incorporation) Rules 2014. In this regard, relevant extracts of Section 12 of the Companies Act, 2013 read with Rule 25 of the Companies (Incorporation) Rules, 2014 to be read as under: -

“12. Registered Office of Company

- (1) A Company shall within thirty days of its incorporation and at all times, thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it.*
- (2) The Company shall furnish to the Registrar verification of its registered office within a period of thirty days of its incorporation in such manner as may be prescribed.”*

Rule 25 of the Companies (Incorporation) Rules, 2014 states as under:-

“25 Verification of Registered Office

- (1) The verification of the registered office shall be filed in Form No.INC.22 along with the fee, and*
- (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.”*

From the above, it was noted that the Company was required to furnish verification of its registered office which the Respondent, being independent professional, certified to have undertaken when he stated to have personally visited the registered office of the Company. However, it was a false declaration in the e-form INC-22 made based on rental agreement as well as utility bills. It was viewed that the Companies Act has envisaged such verification based on several parameters which also include physical verification of the registered office apart from verification through rental agreement and utility bills. It was, accordingly, viewed that the Respondent had failed to exercise due diligence while performing his professional duty. Accordingly, the Committee opined that the Respondent was Guilty of Professional misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 in respect of instant allegation.

5.3 Thus, upon overall examination of facts and documents brought on record, the Committee viewed that the Respondent was Guilty of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.

Conclusion

6. Thus, in the considered opinion of the Committee, the Respondent was 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. Sushil Kumar Goyal]
Member**

Sd/-

**[CA. Piyush S Chhajed]
Member**

Date: 22nd December, 2023

Place: New Delhi