



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/261/2022/DD/156/2022/DC/1681/2022

In the matter of:

**Deputy Registrar of Companies
Government of India
Ministry of Corporate Affairs
Office of the Registrar of Companies,
NCT of Delhi & Haryana
4th Floor, IFCI Tower
61, Nehru Place,
NEW DELHI – 110019**

.....Complainant

Versus

**CA. Karthik Mohan (M.No. 243159)
No. 16/2, National High School Road,
Visveshwarapuram,
Near Kamat Hotel,
BENGALURU-560004**

.....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 5th September 2023, the Disciplinary Committee was, inter-alia, of the opinion that **CA. Karthik Mohan (M.No. 243159)** (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 was grossly negligent in the conduct of his professional duties while certifying Form No. INC – 22 of M/s. Vocca Technology Private Limited (hereinafter referred as 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 earlier submissions, stating that he had checked all the documents before certifying Form INC-22. The Respondent further mentioned that due to travel restriction during COVID at that time, a video call was conducted by him to ensure that the registered office of the Company was at appropriate place. However, recording of the video call was not made, but he obtained photos and videos of the office before certification.
5. The Committee considered the reasoning as contained in the findings holding the Respondent Guilty of professional misconduct vis-à-vis representation of the Respondent made before it.
6. Keeping in view the facts and circumstances of the case, along with the material on record including representations on the findings, the Committee is of the view that there were no travel restrictions in Delhi at the time of certification as contended by the Respondent. The Committee further noted that the Respondent while certifying e-form INC-22 had specifically declared that he had personally verified the registered office of the Company whereas he in his submissions stated that he verified the registered office of the Company through video call. The Committee noted that the Respondent failed to bring any concrete evidence in support of his claim. Hence, the professional misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 5th September 2023 which is to be read in conjunction with the instant Order being passed in the case.
7. The Committee further observed that the Respondent failed to ensure that the agreement entered into by the Company was in compliance with the requirements of registered office as envisaged under the Companies Act, 2013. Accordingly, it was viewed that the Respondent was grossly negligent not only for certifying the incorrect details in INC-22 regarding personally visiting the registered office, but also in not observing from the documents available for his verification that the registered office being reported in INC – 22 was not on the lines as envisaged under the Companies Act, 2013. This conduct of the Respondent constitutes Professional Misconduct as per Item (7) of Part 1 of the Second Schedule to the Chartered Accountants Act, 1949



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

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 charge and the gravity of the matter ordered that the name of **CA. Karthik Mohan (M.No. 243159)** be removed from **Register of Members for a period of 2 (Two) months 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/261/2022/DD/156/2022/DC/1681/2022

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MEMBERS PRESENT:

CA. Aniket Sunil Talati, Presiding Officer

Smt. Anita Kapur, Member (Govt. Nominee)

Dr. K Rajeswara Rao, Member (Govt. Nominee)

CA. Piyush S Chhajer, Member

CA. Sushil Kumar Goyal, Member

Date of Final Hearing: 19th May, 2023 through Video Conferencing

PARTIES PRESENT

(i) CA. Karthik Mohan – Respondent (appeared from his personal location)

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. It was noted that Item (7) of Part I of Second 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 the allegations against the Respondent

2. The extant complaint was filed by the Registrar of Companies, New Delhi (hereinafter referred to as ‘**the Complainant**’ or ‘**the Complainant Department**’) wherein it was stated that certain Foreign Directors or individuals/Shareholders/entities had engaged dummy persons as subscriber's to MOA & Directors and registered companies with RoC, NCT of Delhi & Haryana by using forged documents/falsified addresses/signatures, Director identification Number (DIN) obtained by furnishing false/forged document to MCA and companies/foreign individuals or entities directly or indirectly connected with these companies were found to be engaged in illegal/suspicious activities, Money laundering, tax evasion and non-compliance of various provisions of laws and thus, as per the Complainant, they disregarded the interest of nation.

It was also stated that certain professionals connived with these companies/their directors/subscriber to MOA and Foreign individuals who were acting behind such companies and professionals had knowingly incorporated the companies and were also assisting in running of them for illegal/ suspicious activities in violation of various laws and further certified various reports/ e-forms filed with Ministry of Corporate Affairs on MCA 21 Portal with false information or by concealing the material facts/ information to hide the real identity of Foreign person behind such companies.

Keeping in view the aforesaid background, in the instant complaint, it was noted that the Complainant had raised two allegations in relation to its registered office of the Company as well as frequent change in directors of the Company. However, after due investigation by Director

(Discipline) in the matter, the Respondent was held prima facie guilty only in respect of one allegation and accordingly these proceedings are confined to that charge.

2.1 In the extant case, the Complainant had alleged against the Respondent who had certified Form No. INC – 22 **(C-16 to C-17)** filed on MCA portal for M/s. Vocca Technology Private Limited (hereinafter referred as the Company) in relation to notice of change of situation of registered office of the Company, that when the Complainant Department conducted verification of physical registered office address of the Company it was found that the company was not operational from / not physically available at the registered office address and that the Company existed only on paper. It was stated that as per Section 12 of the Companies Act, 2013, an incorporated company should maintain a registered office address where all the official communications be received, and statutory records and books of accounts be kept. Thus, as per the Complainant, the Respondent had failed to exercise due diligence and was grossly negligent in the conduct of his professional duties while certifying alleged INC – 22.

Proceedings

3. During the hearing held on 19th May 2023, the Committee noted that the Respondent appeared through video conferencing before it for hearing. The Committee further noted that the Complainant's representative vide email dated 17th May 2023 expressed his inability to attend the hearing on account of some urgent official work. Considering the fact that the Complainant had not sought adjournment and in view of explanation to proviso of Rule 18(18) of CA Rules, 2007, the Committee decided to proceed further in the matter. Thereafter, the Respondent gave 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 the first hearing, 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 before the Committee that 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 replied that he did not plead guilty and opted to defend his case.

The Committee asked the Respondent to make 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 and the Respondent was provided an opportunity to produce video call record, within 7 days from the date of hearing, based on

which he had contended to have verified registered office of M/s. Vocca Technology Private Limited (Company) for its incorporation.

3.1 On 21st June 2023, the Committee considered the matter and noted that the Respondent had vide his e-mail dated 25th May 2023, submitted certain information. Accordingly, the Committee considered the documents on record; oral and written submissions made by both parties, and upon consideration of the facts and circumstances of the case, decided the matter.

Findings of the Committee

4. In extant matter, the allegation made by the Complainant against the Respondent was in relation to registered office of the Company. It was stated that at the time of spot inspection by the Complainant Department, the Company was not found operational from /available at its registered office address and thus, as per the Complainant, it existed only on paper. It was stated that as per Section 12 of the Companies Act, 2013, an incorporated company should maintain a registered office address where all the official communications be received, and statutory records and books of accounts be kept. Thus, as per the Complainant, the Respondent had failed to exercise due diligence and was grossly negligent in the conduct of his professional duties while certifying alleged INC – 22.

4.1 The Respondent in his submissions before the Committee inter-alia stated that due care was taken by him while certifying alleged form INC-22, such as, the verification of supporting documents, Identity Proofs of the Director signing the form and declarations by the directors. On account of COVID 19 travel restrictions during September 2021, he had verified the place of registered office via a Video Call, and further during December 2021, he had made a visit to verify in person the premises. Further, he contended that he was neither involved in the incorporation of the Company, nor had undertaken any assignments for the Company apart from the certification in Form INC-22.

4.2 It was noted that when the Committee asked the Respondent to to produce video call record, based on which he had contended to have verified registered office of M/s. Vocca Technology Private Limited (Company) as mentioned in INC 22 certified by the Respondent, he vide his email dated 25th May 2023, expressed his inability to retrieve the video call records. However, he produced certain images as well as video of the office stating that the same was obtained by him for verification.

4.4 On perusal of information and documents as available on record, it was noted that the Company was incorporated on 01/12/2020 (**D-10**) and registered office address was mentioned at that time as; 55, 2nd Floor, Lane No. 2, Westend Marg, Saidulajab, Near Saket Metro Station, New Delhi. Further, as per Form No. INC – 22 dated 02/10/2021 (**C-16 & 17**) certified by the Respondent, it was evident that the Company had changed its registered office w.e.f. 24/09/2021 from said address to; Unit No. 01, Plot No. 2, DDA Building, Distt. Centre, Vardhman Trade Centre, Nehru Place, New Delhi – 110019 vide resolution of Board of Directors dated 23/09/2021. Thus, it was reasonably certain that at the time of verification by the Complainant Department, the registered office address as certified by the Respondent was the registered office of the Company.

4.5 It was noted that the Respondent in “Declaration and certification by professional” column (**C-16**) of the Form INC-22 had given an undertaking that he had personally visited the registered office at the given address and that the Company was functioning therefrom when the Form certified by him read as follows:

(iii) “I further declare that I have personally visited the registered office given in the form at the address mentioned herein above and verified that the said registered office of the company is functioning for the business purposes of the company”.

However, it was noted from his written submissions that the Respondent had submitted to have verified the registered office as mentioned in INC 22, certified by him, through video call on account of COVID travel restrictions in place during September 2021 and that later in December 2021, he had verified the premises in person. It was viewed that firstly there was contradiction in the declaration made under his certification vs a vs that had been done by him. Though he had declared to have personally visited the registered office of the Company in October 2021 (date of Form INC-22) but as per his admission, he had not visited the said premises till December 2021. It was also viewed that once the alleged INC-22 was filed then it was futile to visit the alleged registered office of the Company thereafter. Incidentally, it was noted that during September 2021, there were no COVID travel restrictions in place in New Delhi Region as being contended by the Respondent. Hence, the ground of his defense for switching to video call was not acceptable.

4.6 With respect to his assertion, to have verified the premises through video call, it was noted that firstly, the Respondent had failed to produce video call record to substantiate his contention. Moreover, it was evident that he had not physically verified the premise of registered office of the Company, which was mandatorily required by law and accordingly it also raised the question as to whether he had been able to verify if the Company was operational therefrom

through video call. It was viewed that through video-call verification was limited to the extent it was being shown through call. It could not check the veracity of the undertaking given in the Form. Accordingly, it was viewed that the Respondent had given a false certification in Form No. INC – 22 (C-16 & 17) dated 02/10/2021 which is self-contradictory. Further, the Committee also noted that the Respondent had also produced on record the documents obtained by him before certifying alleged INC-22 **(W-2)** which also include the Virtual Office Agreement dated 23rd September 2021 between the Company and Rworkspaces (W-5 to W-9) as well as ‘No Objection Certificate’ as issued by M/s Rworkspaces which interalia state as under:

Abstract of Virtual Office Agreement

*“The Client **may use the Centre address as its business address only. Any other uses are prohibited without Provider’s prior written consent.** This Documents entitles the Client to use the address on visiting cards, letterheads and other business related collaterals (W-6).”*

Abstract of ‘No Objection Certificate’

*“In the above connection I hereby confirm that I have “No Objection” for the use of the address **Unit No. 01, Plot No. 2, DDA Building, Distt. Centre, Nehru Place, New Delhi – 110019, by the Client for using virtual office services and thus using its address for the purpose of their office....***

*...The client agrees that the use of the business centre address as the address for the purpose mentioned above **does not entitle the client to claim any rights of possession,** tenancy, easement, deemed tenancy, sub-tendency, demise, license or any such right and the client further agrees that the use of the address of the business centre shall be discontinued by the client immediately pursuant to the expiry or termination of the Office Agreement. On expiry or termination of Office Agreement, the client also further agrees to immediately take all steps to remove the address of the Business Centre from all registrations, filings etc. with statutory, government authorities and keeps Rworkspaces informed of the same in writing (W-15)**(emphasis added).**”*

From the above, the Committee noted that it is evident from the said documents that the Company entered into the said agreement only for obtaining virtual office space which entitled it to use address of the Business Centre as address of the Company. It had been clearly agreed

that the Company was not entitled to the possession of the said address. Further, it was observed that neither any rental amount was specified in the agreement nor the period for which it was taken. In other words, such agreement for registered office of the Company was against the requirements of Sec 12 of Companies Act, 2013 which states that:

“Sec 12 of Companies Act, 2013

- (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) ...*
- (3) ...*
- (4) Notice of every change of the situation of the registered office, verified in the manner prescribed, after the date of incorporation of the company, shall be given to the Registrar within thirty days of the change, who shall record the same.*
- (5) ...*
- (6) ...*
- (7) ...*
- (8) ...*
- (9) If the Registrar has reasonable cause to believe that the company is not carrying on any business or operations, he may cause a physical verification of the registered office of the company in such manner as may be prescribed and if any default is found to be made in complying with the requirements of sub-section (1), he may without prejudice to the provisions of sub-section (8), initiate action for the removal of the name of the company from the register of companies under Chapter XVIII.”*

4.7 From the above, it was viewed that a registered office was envisaged as an office capable of receiving and acknowledging all communications and notices as may be addressed to it at all times. Similar principle applies to the registered office if changed thereafter. Further, it was noted that sub-clause (9) of Sec 12 of the Companies Act, 2013 empowers the Registrar to cause ‘physical verification’ of the registered office. It was viewed that such power stems from the fact that the Companies Act, 2013 presumes that there should be a physical registered office of the Company irrespective of the mode through which the business of the Company was being conducted. In the extant case, it was observed that the agreement was entered into only to obtain virtual office which did not comply with the requirements of registered office as envisaged under the Companies Act, 2013. Accordingly, it was viewed that the Respondent was grossly

negligent not only in failing to visit office but also in observing from the documents available for his verification that the registered office being reported to be taken in INC – 22 was not on the lines as envisaged under the Companies Act, 2013. Accordingly, the Respondent is 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.

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/-
[Dr. K Rajeswara Rao]
Member (Govt. Nominee)

Sd/-
[CA. Sushil Kumar Goyal]
Member

Sd/-
[CA. Piyush S Chhajed]
Member

Date: 5th September, 2023

Place: New Delhi