



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PR/316/2020-DD/311/2020/BOD/665/2022]

ORDER UNDER SECTION 21A (3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH RULE 15(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007

In the matter of:

Shri. Sumit Binani,
Liquidator of M/s Gujrat NRE Coke Ltd.
2A, Ganesh Chandra Avenue,
4th Floor, Commerce House, Room-6,
Kolkata – 700016.

..... Complainant

-vs-

CA. Sunil Kumar Maskara (M. No. 057006)
Maskara Bhawan Shardapally, Makhla
Kolkata – 712233.

..... Respondent

[PR/316/2020-DD/311/2020/BOD/665/2022]

MEMBERS PRESENT (in person):

CA. Rajendra Kumar P, Presiding Officer
Ms. Dolly Chakrabarty (IAAS, ret'd.), Government Nominee
CA. Priti Savla, Member

Date of Hearing and passing Order: 11th January 2024

1. The Board of Discipline vide its Findings dated **28th December 2023** was of the view that **CA. Sunil Kumar Maskara (M. No. 057006)** is **GUILTY** of Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 read with section 22 of the said Act.
2. An action under Section 21A (3) of the Chartered Accountants Act, 1949 was contemplated against **CA. Sunil Kumar Maskara** and communication dated **4th January 2024** was addressed to him thereby granting him an opportunity of being heard on **11th January 2024** which was exercised by him by being present before the Board through video conferencing. He confirmed receipt of the Findings of the Board and made his representation before it.
3. Thus, upon consideration of the facts of the case, the consequent misconduct of **CA. Sunil Kumar Maskara (M. No. 057006)** and keeping in view his representation before it, the Board decided to Reprimand **CA. Sunil Kumar Maskara (M. No. 057006)**.

Sd/-

CA. Rajendra Kumar P
(Presiding Officer)

Sd/-

Ms. Dolly Chakrabarty (IAAS, ret'd.)
(Government Nominee)

Sd/-

CA. Priti Savla
(Member)

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

मीनू गुप्ता / Meenu Gupta
परिचालन कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आर्यभट्टनगर बिल्डिंग, विश्वनाथ नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwanath Nagar, Shahdara, Delhi-110032

CONFIDENTIAL

BOARD OF DISCIPLINE

Constituted under Section 21A of the Chartered Accountants Act 1949

Findings under Rule 14(9) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

File No.: [PR- 316/2020-DD/311/2020/BOD/665/2022]

CORAM: (In Person)

CA. Rajendra Kumar P., Presiding Officer

Ms. Dolly Chakrabarty, Government Nominee

CA. Priti Savla, Member

In the matter of:

Shri. Sumit Binani,

Liquidator of M/s Gujrat NRE Coke Ltd.

2A, Ganesh Chandra Avenue,

4th Floor, Commerce House, Room-6,

Kolkata – 700016.

..... Complainant

versus

CA. Sunil Kumar Maskara (M. No. 057006)

Maskara Bhawan Shardapally, Makhla

Kolkata – 712233.

..... Respondent

DATE OF FINAL HEARING

4th May 2023

PARTIES PRESENT:

Complainant (in person)

:

Shri Sumit Binani

Respondent (through VC)

:

CA. Sunil Kumar Maskara

FINDINGS:

BRIEF BACKGROUND OF CASE:

- 1.1 The Company M/s Gujarat NRE Coke Ltd. was a public company and was subject to a corporate insolvency resolution process (CIRP) before the Hon'ble National Company Law

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Tribunal (NCLT), Kolkata. The Complainant was appointed as the Interim Resolution Professional by NCLT. The Complainant further stated that since no resolution plan was approved during the CIRP of the Company, the NCLT ordered liquidation of the corporate debtor i.e., the Company and the Complainant was appointed as the Liquidator. Thereafter, all the compromise and arrangement schemes proposed were rejected by NCLT on the grounds that none of them were approved by the financial creditors of the corporate debtor and directed the Complainant to undertake liquidation of Corporate Debtors. The Complainant further stated that the Respondent was a Chartered Accountant employed as Chief Operating Officer of the Corporate Debtor. Thereafter, the Respondent tendered resignation on 05th August 2020. The Respondent prior to his resignation and even after that has sent emails from his official email-id to the financial creditors requesting them to accept the scheme despite knowing that they have rejected the same. Moreover, the Respondent has made a new email-id and has sent mail addressed to the LIC of India (one of the financial creditors) designating himself as the Managing Director of the Company. On refraining the Respondent from sending the emails, he claimed that he is representing the shareholders of the Corporate Debtor, and he shall continue to write such emails. However, in the compromise and arrangement scheme proposed it had been nowhere mentioned that the Respondent would be acting as the Managing Director of the Corporate Debtor upon its revival as claimed by the Respondent.

CHARGE(S) ALLEGED:

- 2.1 The Respondent has misrepresented himself as the Managing Director of the Company upon its revival, despite the fact that he had resigned from the said Company and even, the stakeholders have not taken any such decision in this regard.
- 2.2 The Respondent has ignored the directives issued by the NCLT and also the established procedure set by relevant laws. Moreover, the Respondent tried to confuse the financial creditors of the Company by sending misleading emails despite knowing the fact that they have clearly refused to accept the new Composition Scheme proposed.

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- 2.3 The Respondent has failed to inform to the Council within 30 days of his change of address. Hence has breached the Regulation 187(4) of the Chartered Accountants Regulations, 1988.

The Board noted that the Director (Discipline) in his Prima Facie Opinion held the Respondent Guilty only in respect of the charge specified at para 2.1 above and the said view had been accepted by the Board. Accordingly, the conduct of the Respondent was examined only in respect of the charge specified at para 2.1 above.

BRIEF OF PROCEEDINGS HELD:

3.

S.No.	Date of Hearing	Status/Directions of the Board if any.
1.	4 th May, 2023	Heard and concluded

BRIEF SUBMISSIONS OF THE PARTIES TO THE CASE:

(a) RESPONDENT:

4. The Respondent in his defence, inter-alia, submitted as under: -
- 4.1 In M/s Gujarat NRE Coke Ltd, the Respondent had worked for more than 11 years at a senior position, and it was his prime responsibility to try his best to save the company from liquidation in the interest of the society at large (More than 2,00,000 shareholders, around 1000 employees and others), Accordingly, he was supporting the revival scheme proposed by a group of shareholders to financial creditors. While following up with bankers, they raised the issue that in case they consider the proposal, who will be having functional control of the company because they cannot deal with individual shareholders. Accordingly, his name was proposed by shareholders as well as by independent directors of the Company (holding position before Liquidation) as the Managing director on revival of the company. In the interest of the society at large, he started following up with the bankers requesting them to consider and approve the scheme and he was available for any clarification/ modifications as required on the scheme.
- 4.2 The Respondent was following up for the benefit of the society at large and in the interest of the company for a very short period and once bankers refused to accept the revival scheme,

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the Respondent stopped following up with them. The Respondent never misrepresented himself as Managing Director of the company because company was under the control of a Liquidator. There were no objections from any bankers/shareholders against his request for revival.

4.3 Being a fellow Chartered Accountant and Liquidator it was the prime responsibility of the Complainant to support him for revival within the parameters of Rules and Regulation in the larger interest of society, but it appeared to the Respondent that the Complainant didn't like his last efforts for revival and made unnecessary complaint to the Institute to stop his efforts of revival.

4.4 The Respondent submitted a list of evidence / documents to clarify motive behind this complaint and previous actions taken by the Complainant against the fellow chartered accountants / key managerial personnel (whoever tried to revive the company) as well as action/ no action towards revival of the company:

(a) Complaint against all the KMP at Head Office of M/s Gujarat NRE Coke Limited filed by the Liquidator to disturb them so that all of them should leave the company and got the Order against them under section 19(2) r/w section 34(3) of the Insolvency and Bankruptcy Code which was subsequently set aside by NCLAT-New Delhi.

Since the Respondent was positioned in Dharwad Plant of the company at Karnataka, his name could not be included for complaint filed for Kolkata KMP hence liquidator used false complaint to The Institute of Chartered Accountants of India to stop his efforts of revival and succeeded in getting his resignation.

(b) Suspension of work notice issued in Sept 20 to stop operation of Dharwad plant by giving false information to police instead of efforts to continue operation. Details of wrong information submitted by him to local PS (Page number-163) and application filed by workman stating all the false information furnished by liquidator in page no. 171 of IA 865 of their application before NCLT-Kolkata Bench.

(c) National Company Law Tribunal - Kolkata Bench by the erstwhile employees of the company-hearing against the application is still pending.

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4.5 The Respondent also brought on record MOM of COC of the company held on 18th February, 2020 in which bankers expressed that they need more time to understand the proposed scheme but Liquidator have not taken any steps towards that.

(b) COMPLAINANT:

5. The Complainant, inter-alia, made the following submissions to substantiate his case:

5.1 The Respondent has connived with the erstwhile promoter and director of Gujarat NRE Coke Limited (hereinafter referred to as the Corporate Debtor) to create roadblocks and frustrate the liquidation process of the Corporate Debtor being carried under the provisions of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the Code). During the liquidation process of the Corporate Debtor the Respondent did not have any respect for the established procedure and norms laid down in the Code, he acted beyond his official role as the COO of the Corporate Debtor, he not only misrepresented facts but also misconducted himself by falsely misrepresenting himself before the stakeholders of the Corporate Debtor which is unethical and unbecoming of a Chartered Accountant.

5.2 As a liquidator of the Corporate Debtor the Complainant had duly performed his roles, duties and obligations as provided in the Code and also in accordance with the directions of the relevant Adjudicating Authority from time to time. The Respondent on the contrary did not respect the provisions of the law and instead of supporting the liquidator and acting on his instructions in carrying forward the liquidation process of the Corporate Debtor, connived with the erstwhile management to frustrate the liquidation process and supported them in their ulterior motives. The Respondent's duty as a key senior employee was to assist and support the liquidator in carrying out his duty and not promote the ulterior motives of the erstwhile management who were attempting to take back illegal control of the Corporate Debtor by fronting few employee shareholders and abusing the process of law. The Respondent was designated as the Chief Operating Officer of the Corporate Debtor and his prime responsibility was to manage all the plant operations of the Corporate Debtor. Taking steps to revive the Corporate Debtor was the job of the liquidator which he did and the same is on record. It is unfortunate that in the garb of making tall claims of his self-created KRA of social responsibility, the Respondent was illegally promoting the individual interest of the erstwhile management of the Corporate Debtor and aided in frustrating the ongoing

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liquidation process of the Corporate Debtor. The Respondent was not authorized by the liquidator nor the proponents of the Scheme to follow up with the creditors for considering and approving the Scheme. The consideration and approval of the scheme in question has to be in accordance with the process stipulated in law and when after following the entire laid process, if the creditors concerned were not in favour of the scheme, the Respondent without any authority, acting on the instructions of the erstwhile management of the Corporate Debtor and defying the instructions of the liquidator started communicating with the creditors by misrepresenting himself as the MD upon revival of the Corporate Debtor. He continued to do so even after being instructed not to. Nowhere in the scheme in question, the name of the Respondent was proposed to act as MD upon revival of the Corporate Debtor and even it would have been proposed, he could have used such designation only upon approval of the scheme. It is also absurd on part of the Respondent to claim that he was following up the bankers with a request to approve the scheme and was available for any clarification/modifications as required on the scheme because the scheme was proposed by a small group of shareholders, the Respondent was not a part of the said group and was neither authorized by them to deal with any modification/clarification on the scheme. It is surprising how the Respondent voluntarily can take any such step, without any authorization in a scheme approval process which is to be carried in accordance with the provisions of the applicable law. The Respondent, being the COO of the Corporate Debtor, whose prime responsibility was to look after the plant operations, without any authorization and in complete disregard of the provisions of the Code and the instructions of the Liquidator, voluntarily decided that it was his duty to save the Corporate Debtor from liquidation when an independent liquidator appointed by the Adjudicating Authority under the Code was taking due steps under law for liquidating the assets of the Corporate Debtor after its revival failed. Clearly the Respondent has not come with clean hands. In clear violation of the Code, the Respondent not only supported the illegal deeds of the erstwhile management but also created roadblocks in the liquidation process of the Corporate Debtor. The Respondent has lied that he stopped following up with the bankers for acceptance of the scheme once they refused to accept it. It is evident from Annexure D to the WS of the Respondent that the lenders were not convinced with the terms and conditions of the proposed Scheme. Also, in a Court convened meeting of the lenders for consideration of the Scheme held on

21.02.2020, all the secured lenders voted against the Scheme and as a result the Scheme was not approved by the requisite majority of 75% of the lenders as per the mandate of the law. Prior to the aforesaid meeting, it is on record that the Respondent had various unauthorized one to one meeting with the lenders/bankers with respect to consideration and approval of the Scheme but still the lenders did not approve it. The voting for the scheme took place on 21.02.2020 wherein the lenders disapproved the Scheme. The Respondent was fully aware of the said disapproval. The Adjudicating Authority vide its Orders dated 09.06.2020 and 24.06.2020 also rejected the scheme and its reconsideration but yet thereafter the Respondent kept on following up with the lenders over emails for approval of the Scheme and the same is on record in his Complaint and Rejoinder thereof. Therefore, the contention of the Respondent that he stopped following up with the bankers after they refused to accept the scheme as aforesaid is a blatant lie. He further stated that there were serious objections from the lenders against the request for revival being illegally sent to the lenders. This objection is recorded in the 12th Meeting of the Monitoring Committee of the Corporate Debtor held on 16th September 2020. The lenders, while recording objections, were of the opinion that Mr. Maskara has been sending the illegal request emails even after non approval of the scheme of revival of the Corporate Debtor which is a false representation to the lenders. Therefore, the Liquidator should take appropriate steps against Mr. Maskara in accordance with the provisions of the Code and other applicable laws. A complaint was filed against the Respondent because of his misconduct and misrepresentation as stated in his Complaint and Rejoinder thereof. It was filed on 07.10.2020 after the repeated misconduct of the Respondent and the same was filed in accordance with the decision of the lenders at the 12th Meeting of the Monitoring Committee of the Corporate Debtor.

5.3 The Respondent is trying to digress from the moot point and has enclosed certain documents relating to the liquidation process of the Corporate Debtor which are irrelevant in the instant matter. However, the same are dealt with serially as under:

- a. The Respondent has enclosed an Order dated 02.02.2021 in an appeal being Company Appeal (AT) (Ins) Nos. 724-725 of 2020 filed by the relatives/associate company of the erstwhile management against the liquidator. (hereinafter referred to as NCLAT order) This appeal was filed for challenging the impugned Orders dated 17.07.2020 and 14.08.2020 wherein 4 KMPs and the family/associate entity of erstwhile



management of the Corporate Debtor were found to be non-cooperating in providing entry and access to the liquidator inside the registered office of the Corporate Debtor and were accordingly directed to cooperate in the liquidation process by Hon'ble NCLT Kolkata Bench. The aforesaid NCLAT Order observed that the matter requires a further detailed hearing and therefore while setting aside the aforesaid NCLT Orders, directed NCLT Kolkata Bench to consider the matter afresh and pass appropriate Order as per law. This matter is still pending adjudication before Hon'ble NCLT Kolkata Bench and therefore sub-judice. This matter does not concern the Respondent in any manner. Also, the resignation letter of Mr. Pawan Kumar Agrawal, one of the non-cooperating employees of the Corporate Debtor as enclosed by the Respondent also does not concern in any manner the instant Complaint.

- b. The name of the Respondent was not included in the Non-Cooperation Application filed by the Liquidator along with the other KMPs of the Corporate Debtor because the Respondent was located at Dharwad and did not play any role in blocking access of the Liquidator in visiting the offices of the Corporate Debtor at Kolkata.
- c. IA 865 of 2020 was a frivolous application filed before Hon'ble NCLT Kolkata by a few employees of the Corporate Debtor at the behest of its erstwhile management against the liquidator. The application levelled various false allegations against the Liquidator and some of which are mentioned by the Respondent. The Respondent was not a party to this application. The matter was heard before Hon'ble NCLT Kolkata in detail and after detailed hearing, an Order dated 17.02.2021 (pronounced on 03.05.2021) dismissed all the charges of the petitioner employees against the liquidator. An appeal against the impugned Order also did not survive and was dismissed by Hon'ble NCLAT. This matter brought on record by the Respondent also does not concern in any manner the instant Complaint.
- d. The Respondent has enclosed Annexure C which is a part of the copy of the application being IA 1053 of 2020 filed by a few employee shareholders of the Corporate Debtor at the behest of its erstwhile management. This frivolous application again levels baseless allegations against the liquidator and is pending adjudication before Hon'ble NCLT Kolkata Bench. The matter is sub-judice and does not concern the Respondent in any manner.

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- e. The MOM of CoC of Gujarat NRE Coke Limited enclosed by the Respondent, held on 18th day of February 2020 records the reasons of the bankers for not considering and not getting convinced on the revival Scheme submitted by few shareholders of the Corporate Debtor. Thereafter, the scheme was voted against by the bankers at a Court convened meeting of the lenders on 21.02.2020. He said that the liquidator did not have any role to play in the same and took all subsequent steps as was required to be taken by him in the ongoing liquidation process of the Corporate Debtor. The details of the steps taken by him are already provided in the Complaint and the Rejoinder thereof filed by the liquidator in the instant matter and he reiterated the same.

OBSERVATIONS OF THE BOARD:

- 6.1 As regard the charge alleged at para 2.1 above, the Board noted that the Respondent was the Chief Operating Officer of the Company. He submitted his intent to resign from the Company on 06.07.2020 and after serving the notice period of one month he resigned as the Chief Operating Officer of the Company. The Board further noted that the Respondent in his written submissions made at the prima facie stage accepted that he represented himself as the Managing Director of the Company but in the interest of the society at large, he started following up with the bankers requesting them to consider and approve the scheme and he was available for any clarification/ modifications as required on the scheme.
- 6.2 The Board further noted that the Respondent represented himself as the Designated Managing Director on Revival of M/s Gujarat NRE Coke Ltd. in the following emails sent to various stakeholders:

S.No.	Date of the Email	Addressed to	Relevant content of the email
1.	13 th August, 2020	Lenders	The Respondent sent the email showing himself as 'Designated Managing Director on revival of M/s Gujarat NRE Coke Ltd.

2.	19 th August, 2020	Liquidator.gncl@gmail.com ; dpsharma7@gmail.com	<i>"I have been designated as the MD on behalf of scheme proponents by the independent directors named in the scheme which you are well aware."</i>
3.	18 th June, 2020	Lenders	<i>"I am pleased to inform you that the Independent Directors of the company proposed me as Managing Director of the Company on its revival."</i>
4.	17 th August, 2020	Lenders	The Respondent sent the email showing himself as 'Designated Managing Director on revival of M/s Gujarat NRE Coke Ltd. In the said email the Respondent is seen to be requesting for an easement due to the economic slump because of COVID-19 pandemic.
5.	20 th August, 2020	chairperson@ibbi.gov.in	<i>"I have been the Chief Operating Officer of the Company employed since 2007 and currently designated by the scheme proponents and the independent directors as the Managing Director designate on revival of the Company to provide necessary comfort and confidence to all the stakeholders. Due to no support/action by Mr. Binani</i>

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			towards operation and revival of the Company, I was compelled to resign last month." The Respondent sent the email showing himself as 'Designated Managing Director on revival of M/s Gujarat NRE Coke Ltd.
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- 6.3 The Board further noted that the Respondent brought on record copy of the Compromise and Arrangement Scheme submitted by Mr. Pramod Kumar Loharuka as on 30th November 2019 and the TEV Report carried out by professionals, which was submitted to the bankers, stating that he used such designation as his name was proposed as the Managing Directors by the Independent Directors appointed for the instant scheme. The Board perused the copy of the Compromise and Arrangement Scheme and the following extract of the same merits consideration in this regard:

"The Applicants under this Scheme propose to appoint two Independent Directors, namely Mr. Sisir Kumar Mukherjee and Mr. Amit Kumar Majumdar, both of whom are persons of repute and had been a part of the erstwhile Board of Directors of the Company as Independent Directors. The Board shall have the power to expand the existing Board as and when required and may also appoint a CEO and or Managing Director and such Key Managerial Persons as be required in compliance with Section 203 of the Companies Act, 2013. The Board will run the affairs of the Company with the help of the existing staff and executives of the company and with the help of external professionals, as deem fit and proper. The Board of Directors shall have all such powers as provided under Section 179 of the Companies Act, 2013."

- 6.4 The Board also perused the copy of the TEV Report and the following extract of the same merits consideration in this regard:

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"Management of the Company post approval and Implementation of the Scheme-

- 1. The Applicants of the Scheme propose to appoint two Independent Directors, namely Mr. Sisir Kumar Mukherjee and Mr. Amit Kumar Majumdar, both of whom are persons of repute and had been a part of the erstwhile Board of Directors of the Company as Independent Directors. The Board shall have the power to expand the existing Board as and when required and may also appoint a CEO and or Managing Director and such Key Managerial Persons as be required in compliance with Section 203 of the Companies Act, 2013. It was proposed to appoint Mr. Sunil Maskara as the Managing Director of the Company. The Board will run the affairs of the Company with the help of the existing staff and executives of the company and with the help of external professionals, as deem fit and proper. The Board of Directors shall have all such powers as provided under Section 179 of the Companies Act, 2013.*
- 2. The Board may delegate its powers to committees, sub-committees and to such persons as it may think appropriate to manage the day-to-day affairs of the Company."*

6.5 On a combined reading of the aforesaid documents, the Board observed that the Scheme proposed to appoint two Independent Directors and the Board will have the power to expand by appointing one managing Director or CEO and further in the said scheme, Respondent's name was proposed for the post of Managing Director of the Company. However, it is noted that the Scheme and its proposals were subject to approval by financial creditors of the Company. The Board further noted that as per section 491 of Companies Act, 1956 which was further replaced by Section 313 of Companies Act, 2013 read with Section 34 of Insolvency and Bankruptcy Code, 2016 after the appointment of the Liquidator all the powers of the Board and all the Directors shall cease except for the purpose of giving notice of appointment to the Registrar. The relevant portion of Section 491 of Companies Act, 1956 and Section 34(2) of Insolvency and Bankruptcy Code, 2016 merit consideration in this regard:

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"Section 491" Board' s powers to cease on appointment of a liquidator. On the appointment of a liquidator, all the powers of the Board of directors and of the managing or whole- time directors, managing agent, secretaries and treasurers, and manager, if there be any of these, shall cease, except for the purpose of giving notice of such appointment to the Registrar in pursuance of section 493 or in so far as the company in general meeting or the liquidator may sanction the continuance thereof.

"Section 34(2): On the appointment of a liquidator under this section, all powers of the board of directors, key managerial personnel and the partners of the corporate debtor, as the case may be, shall cease to have effect and shall be vested in the liquidator."

- 6.6 The Board also considered the letter dated 11th June 2020 of Sh. Sisir Kumar Mukherjee addressed to the Respondent wherein it was stated as under:

*"In this connection I wish to inform that we have decided to **propose your name for appointment as the Managing Director of the Company on the implementation of the scheme.**"*

- 6.7 Thus, the Board noted that the Respondent was not appointed as the Managing Director of the Company, only his name was proposed for such an appointment. Also, such an appointment would be valid only on the acceptance and implementation of the proposed Scheme, as after that the Board comes back to exercise their power. In this regard, the Board also noted that the said scheme could have been implemented if it got approved by the stakeholders as per law. However, the said scheme was rejected / not approved by the financial creditors at the meeting held on 21.02.2020 and subsequently by NCLT on 9th June 2020. Moreover, the said scheme when appealed for reconsideration was again rejected by NCLT vide its Order dated 09th June 2020 on the grounds that the Creditors refused to reconsider the said scheme. Thus, the Board noted that the said scheme was not only rejected but the appeal for its reconsideration and the addition of TEV Study report was rejected too by the financial creditors and also by the Adjudicating Authority. Hence in the said circumstances, the Board cannot exercise their powers of managing the affairs of the Company and they do not have any authority under law to

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appoint the managing director also and rather the two independent board members so proposed also do not constitute a valid board.

- 6.8 Thus, the Board noted that the Respondent was not holding the position of Managing Director of the Company. However, he was representing himself as the Managing Director of the Company to the stakeholders and various bank officials despite knowing the facts that, firstly the said scheme has been rejected and secondly that he has been proposed to be appointed as the Managing Director but had not been appointed in reality. Hence, the Board viewed that the Respondent has misrepresented himself as the Managing Director of the Company falsely which is unbecoming of a Chartered Accountant. Accordingly, the Board held the Respondent Guilty in respect of the charge alleged.

CONCLUSION:

7. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **GUILTY** of 'Other' Misconduct falling within the meaning of Item (2) of Part-IV of the First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act.

Sd/-

CA. Rajendra Kumar P

(Presiding Officer)

Sd/-

Ms. Dolly Chakrabarty (IAAS, retd.)

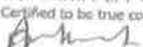
(Government Nominee)

Sd/-

CA. Priti Savla

(Member)

DATE: 28-12-2023

सही प्रतिलिपि होने की लिए प्रमाणित
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अरुण कुमार / Arun Kumar
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, किरास रोड, मादपुरा, दिल्ली-110032
ICAI Bhawan, Nubwas Peth, Madhura, Delhi-110032