

PR/G/172/2022/DD/109/2022/DC/1613/2022

CONFIDENTIAL

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

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

Ref. No.: [PR/G/172/2022/DD/109/2022/DC/1613/2022]

**The Registrar of Companies, Karnataka,
Ministry of Corporate Affairs,
Kendriya Sadan,
2nd Floor, E Wing,
Koramangala,
Bengaluru - 560034**

....Complainant

Versus

**CA. Piyush Dadhich (M.No.231485)
#GF3-A, Sai Vihar Apartments,
Old Manipal Hospital Road,
Pattenagere Village,
Rajarajeshwari Nagar,
Bangalore - 560098**

....Respondent

MEMBERS PRESENT:

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

Date of Final Hearing: 3rd October, 2023 through Video Conferencing

The following parties was also present: -

- (i) Shri Venkatraman Kavadikeri, AROC – the Complainant's Representative**
- (ii) CA. Piyush Dadhich – the Respondent**
- (both (i) and (ii) appeared from their personal location)**

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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, Karnataka (hereinafter referred to as '**the Complainant**' or '**the Complainant Department**') wherein it was stated that certain LLPs were incorporated at the behest of Chinese national for doing illegal and unauthorised business in India including power bank scams. Such LLP's main object was stated to be trading & exporting of gift articles, human resources outsourcing or logistics etc. These LLP's were incorporated and promoted by Chinese nationals and that these LLP's had common designated partners (DP's) with one or two Indian nationals.

With aforesaid background, the following allegations were raised against the Respondent who was stated to have facilitated in incorporation of various LLPs of which the Complainant had made allegations in respect of LLPs namely M/s. RUNTO TECHNOLOGY LLP, M/s. 3C TECHNOLOGY SOLUTION LLP & M/s CDISCOUNT TRADING LLP).

- (i) That **M/s Runto Technology LLP** was incorporated by two Chinese associated with other 3 LLPs, all having same address **(C-2)**.
- (ii) That incorporation documents certified by the Respondent had apparently fake email ID 83477793@qq.com **(C-2)**.
- (iii) That M/s Runto Technology LLP had not done much business as per the financials for the period 18.10.2018 to 31.08.2020 and no financials were filed for the year 2020-21 **(C-2)**.
- (iv) That the Respondent had certified Form 8 (Statement of Accounts and Solvency) of M/s Runto Technology LLP for FY 2019-20 with unsigned attachment very casually **(C-2)**.
- (v) That both the designated partners also incorporated another Company in the year 2018 with the name M/s Hoteon Trading Private Limited in the state of Karnataka with the similar objects **(C-2)**.

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- (vi) That Li Fengxian, Designated Partner was given Indian Visa for the period 11.05.2018 to 10.11.2018 but not for employment or work. But LLP was formed on 18.10.2018 at the end of her Visa validity (C-2).
- (vii) That Form 8 of **M/s 3C Technology Solution LLP** for the year 2019-20 was certified by the Respondent. It was stated that in the financials of said LLP sale of goods was shown at Rs. 2.91 Cr. and purchase of goods for re-sale was shown at Rs. 2.21 Cr in the financial year 2018-19. Further, in the year 2019-20 the sale of goods was shown at Rs. 4.38 Cr. whereas purchase of goods for re-sale was only at Rs. 2.62 Cr. Accordingly, as per the Complainant, there was a lot of mismatches in purchase price and sale price when compared to both years. Further, in the year 2018-19 no administrative expenses were shown however, in the year 2019-20, it was shown at Rs. 1.24 Cr (C-3).
- (viii) That **M/s CDiscount Trading LLP** had not done any business as per financial statement for the year 2019-20, which was certified by the Respondent and the attachment and enclosures were not signed by both Designated Partners but certified by the Respondent (C-3).

It was noted that the Complainant had, in extant case, raised the above-said eight allegations against the Respondent. However, after due investigation in the matter by the Director (Discipline), the Respondent was held prima facie guilty only in respect of (i), (iv), (vi) and (viii) charge and accordingly the extant proceedings were limited to those charges.

Proceedings:

3. On 3rd October 2023, the Committee noted that the Complainant's Representative and the Respondent appeared before it through video conferencing. The Committee further noted that the matter was part heard and that during the last hearing it had directed the Respondent to provide details along with copy of VISA of the designated partner based on which he had verified that the said partner of alleged LLP was the then the resident in India as per the applicable provisions of the LLP Act, 2008. Thereafter, the Committee asked the Respondent to make submissions on the matter. The Committee asked the Complainant to provide his submissions thereupon and also sought certain clarifications based on submissions made by the Respondent. Thereafter, the Respondent made final submissions in the matter.

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

Findings of the Committee:

4. At the outset, it was noted that the Respondent in his written submissions inter-alia stated that he had facilitated with the incorporation of LLPs in good faith and for legitimate business. As per him, the LLPs were incorporated to carry out the business of e-commerce and were doing the e-commerce business since incorporation. The Respondent submitted copy of letters

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dated 7th October 2022 addressed on behalf of respective LLPs to the Disciplinary Directorate of the Institute clarifying their business activities, their existence and their status of cases with other regulatory authorities. He argued that he was not involved in their day-to-day business activities.

4.1 As regards the allegation that **M/s. Runto Technology LLP** was incorporated by two Chinese associated with other 3 LLPs, all having same address, the Committee noted that the address of the registered office as mentioned in the FiLLip Form (form for incorporation of Limited Liability Partnership) (**C-14 read with C-16**) for M/s. Runto Technology LLP was stated to be "193, 39th Main, 1st Cross, BTM 2nd Stage, Bangalore, Karnataka 560068" and it was supported by the Rental agreement (**C-27 to C-30**) entered into between the owner of the premises and M/s. Runto Technology LLP, NOC of the owner (**C-31**) and electricity bill of the said premises (**C-32**).

The Respondent vide his written submissions dated 7th October 2022 submitted that though these LLP's had the same address, they had entered into separate rental agreement which was shared by the client with him. He brought on record copy of the same. The Respondent further stated that he had physically verified the place at the time of incorporation and was convinced with the internal arrangement between the LLP's.

4.2 The Committee noted that the Respondent while certifying the form FiLLip (**C-14 to C-19**) stated that *"all the requirements of the Limited Liability Partnership Act, 2008 and the rules made thereunder have been complied with, in respect of incorporation and matters precedent and incidental thereto."*

It was noted that the Respondent had also submitted separate rent agreements in respect of all three LLPs and that he had assisted only in incorporation of M/s. Runto Technology LLP only. As far as allegation of same address was concerned, the Committee viewed that the knowledge of incorporation of other LLPs on same address could not be assumed to be in the knowledge of the Respondent and that the rent agreement of the said LLP was with respect to only 'piece and parcel' of alleged address.

In light of the above, the Committee viewed that considering the documents available on record, the allegation against the Respondent of incorporation of M/s. Runto Technology LLP on same address as that of other three LLPs was not sustainable. Thus, the Committee viewed that the Respondent was **Not Guilty** for Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 in respect of extant allegation.

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5. As regards the allegation that the Respondent certified Form 8 (Statement of Accounts and Solvency) (C-83 to C-89) of M/s Runto Technology LLP for FY 2019-20 with unsigned attachment, the Committee noted that Form 8 was required to be filed pursuant to Rule 24 of Limited Liability Partnership Rules, 2009 containing Statement of Account and Solvency.

5.1 It was noted that the Respondent had submitted that the extant matter pertained to an attachment to Form 8 with respect to disclosure of following details as required under Micro, Small and Medium Enterprises Development (MSME) Act, 2006:

- (i) details of delayed payments due as at the end of accounting year,
- (ii) total interest paid on all delayed payments,
- (iii) interest accrued but not due and
- (iv) total interest due but not paid.

The Respondent argued that the said amounts were NIL and had been mentioned as such in the attachment. Since it was the NIL attachment, it was not signed by the partners. However, they had signed the Form 8 itself. He argued to have not provided any false disclosure of information. Further there was no change in the information provided in the attachment.

5.2 The Committee further noted that the Respondent digitally signed Form 8 (C-83 to C-89) in respect of M/s. Runto Technology LLP and certified that *"It is hereby certified that I have verified the above particulars (including attachment(s)) from the records of [] and found them to be true and correct. I further certify that all the required attachment(s) have been completely attached to this form."*

In light of the above, the Committee viewed that the Respondent had certified the alleged Form only with respect to correctness of particulars stated in the form and that of the attachments. Moreover, Form 8 was digitally signed by both the designated partners, so attachment was considered to have duly been verified by them. In the absence of any evidence to the contrary, it was viewed that a non-signed attachment pertaining to NIL amount could not be considered as tantamount to gross negligence. The Committee, however, cautioned the Respondent to be more careful and cautious while performing his professional duties and carrying out certification work for his clients in his future assignments. Accordingly, the Committee viewed that the Respondent was **Not Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to extant allegation.

6. As regards the charge that Ms. Li Fengxian, Designated Partner of M/s Runto Technology LLP (C-15), was holding Indian Visa for the period 11.05.2018 to 10.11.2018 but not for employment or work and this LLP, as per the Complainant, was formed on 18.10.2018 *for*

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of her Visa validity (C-2), the Respondent in his submissions inter-alia stated that at the time of incorporation, it was required to submit VISA of the partner of the LLP, as proof of residing in India and the Respondent had met the client and obtained VISA and satisfied himself with respect to their presence in India. He further submitted that originally Form Fillip was filed on 8th October 2018 along with VISA proofs of the partners and the said form was sent for re-submission by ROC and the same was re-submitted on 17th October 2018. Hence, there was delay in incorporation.

6.1 The Committee noted that the Complainant had brought on record a copy of Visa of Ms. Li Fengxian (C-24) in which it is mentioned that it was **'NOT VALID FOR EMPLOYMENT / WORK'** and the VISA Type was mentioned as "B-1". The Committee noted that VISA Type "B-1" was generally used by foreign national to visit India for Business purposes (as per Appendix -I to General Policy Guidelines relating to Indian Visa available on https://www.mha.gov.in/PDF_Other/AnnexI_01022018.pdf). It was viewed that the said foreign national might not be permitted to visit for employment purpose, but she was permitted to do business. Accordingly, it was viewed that if LLP was incorporated with said foreign national being one of the designated partners, the Respondent could not be held guilty merely on apprehension that the foreign national was staying in India during the period May 2018 to Oct 2018 but and the subject LLP was incorporated during the end of her visa validity. Accordingly, in the absence of any evidence, the Committee viewed that the Respondent was **Not Guilty** for Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

7. As regards the charge that **M/s CDISCOUNT Trading LLP** had not done any business as per financial statement for the year 2019-20, which was certified by the Respondent and the attachment and enclosures were not signed by both Designated Partners but certified by the Respondent (C-3), it was noted that the Respondent had submitted that Form 8 included disclosure requirement under MSME Act, 2006. The Respondent further stated that the LLP had not done any business at all and the said disclosures were NIL and were mentioned as NIL in the attachment. Since the attachment was NIL, it was not signed by the partners. However, the Form 8 was itself signed by the partners and the Respondent has not provided false disclosure of information and there was no change in the information provided as attachment.

7.1 The Committee noted that the only attachment made with Form 8 (C-96 to C-101) of M/s CDISCOUNT Trading LLP was in relation to disclosure of information under MSME Act (C-101) which was not signed by any of the designated partners. It was further noted that the Respondent had digitally signed Form 8 and certified that *"It is hereby certified that I have verified the above particulars (including attachment(s)) from the records of [] and found them to be correct."*

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be true and correct I further certify that all the required attachment(s) have been completely attached to this form."

7.2 In light of the above, the Committee viewed that the Respondent had certified the alleged Form only with respect to correctness of particulars stated in the form and that of the attachments. Moreover, Form 8 was digitally signed by both the designated partners, so attachment was considered to have duly been verified by them. In the absence of any evidence to the contrary, it was viewed that a non-signed attachment pertaining to NIL amount could not be considered as tantamount to gross negligence. The Committee, however, cautioned the Respondent to be more careful and cautious while performing his professional duties and carrying out certification work for his clients in his future assignments. Accordingly, the Committee viewed that the Respondent was Not Guilty of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to extant allegation.

8. Thus, upon overall examination of facts and documents brought on record, the Committee viewed that the Respondent is **Not Guilty** under Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949

Conclusion:

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

10. Accordingly, in terms of Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee passes Order for closure of this case.

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

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

Sd/-
[CA. Sushil Kumar Goyal]
Member

Sd/-
[CA. Piyush S Chhajed]
Member

Date: 22nd December, 2023
Place: New Delhi

सही प्रतिलिपि भेजने की दायिर्ता
Certified to be true copy
सीए सुशिल गोयल / CA. Sushil Goyal
सहायक निदेशक / Assistant Director
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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