



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)
CMA Bhawan, 3 Institutional Area,
Lodhi Road, New Delhi-110003

Phone : +91-11-24622156-57-58
Website : www.icmai.in

The Institute of Cost Accountants of India
Order of The Disciplinary Committee u/s 21B of The Cost and
Works Accountants Act 1959

In the matter of:-

Complaint No. Com/21-CA(64)/2018 -

CMA Avneesh Gupta (M/8996)Complainant
Vs

CMA Gaurav Kumar (M/31731)Respondent

QUORAM

1. CMA Vijender Sharma
2. CMA Biswarup Basu
3. CMA P. Raju Iyer
4. CA Nalini Padmanabhan
5. CA G.V. Krishna

Facts

1. The Disciplinary Directorate was in receipt of a complaint dated 23rd March 2018 in Form I from one Shri Avneesh Gupta (hereinafter referred to as "the complainant") against CMA Gaurav Kumar (hereinafter referred to as "the respondent") bearing membership number 31731 along with the prescribed complaint fee as specified in Regulation 15B(1) of the Cost and Works Accountants Regulations, 1959.
2. On receipt of the instant complaint, the same was registered by the Disciplinary Directorate after it was found to be in order and the same was proceeded with in the manner as prescribed in Chapter III of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. A unique complaint number Com/21-CA(64)/2018 was allotted to the complaint.
3. The complaint was *inter alia* made on the following grounds:
 - a) The complainant, a resident of 1924/19, 2nd Floor, Govindpuri Extension, Kalkaji, New Delhi-110019, held 75% shareholding along with his wife held 25%





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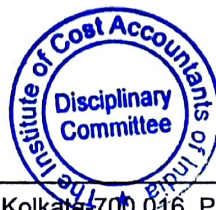
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shareholding (total 100%) in the company, Great Balaji Finbiz Private Limited and occupied the position of Director along with his wife in the said company.

- b) The respondent had committed serious acts of fraud in collusion and in conspiracy with CS Manish Kumar Bansal and CA Meenu Singhal and by virtue of the said collusion and conspiracy had certified various e-forms and records of the Company which were ex-facie forged and fabricated.
- c) The complainant is said to have placed his trust on CS Manish Kumar Bansal, a member of the ICSI bearing Fellow membership number F5044, who was given the responsibility, in a professional capacity, for the incorporation of a company and obtaining NBFC licence from the Reserve Bank of India. On a representation of CS Manish Kumar Bansal the complainant is said to have left the blank letter heads of the company, share certificates and various other documents with him to be used by CS Manish Kumar Bansal in a professional capacity.
- d) That CS Manish Kumar Bansal with criminal intention to cheat and defraud him and in conspiracy with others caused criminal breach of trust. He had filed illegally (i) ROC Forms and (ii) prepared illegal ROC papers for effectuating below mentioned transaction in violation of Companies Act 2013.
- e) In breach of the principle of trust and faith, CS Manish Kumar Bansal in collusion and connivance with the respondent had committed serious acts of professional misconduct, cheating, criminal breach of trust, criminal trespass, forgery, creating false electronic record for the purposes of cheating, harming reputation, computer related offences, theft, cheating by impersonation by using computer resource, criminal conspiracy with common intention and by virtue of this collusion and conspiracy had illegally removed him i.e., the complainant and his wife from being the director of the company by filing forged resignation letters vide DIR 12 with the Registrar of Companies and following documents with respect to Great Balaji Finbiz Private Limited had been uploaded on the website (<http://www.mca.gov.in/>) of MCA on 25.01.2018:
 - i. Letter of Appointment dated 29.12.2017, issued to Mr. Bharat by CA Meenu Singhal.
 - ii. Resolution dated 29.12.2017 of the Board of Directors of Great Balaji Finbiz Private Limited, signed by CA Meenu Singhal.
 - iii. Forged Resignation Letters in his name and in the name of the complainant's wife, Mrs. Rekha Gupta.

A Copy of the above mentioned documents were attached with Form I.

- f) CS Manish Kumar Bansal had then appointed Mr. Bharat as an Additional Director of the Company.





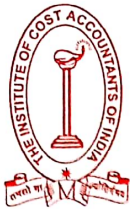
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- g) The resignation and appointment of directors in the Company was approved in the meeting of the Board of Directors of the Company held on 29.12.2017.
 - h) It is difficult to understand that when two out of the three directors had resigned on 29.12.2017, then how can only one director of the Company i.e. CA Meenu Singhal could form the quorum to conduct the meeting of the Board of Directors of the company for the appointment of Mr. Bharat as an additional director of the Company.
 - i) This shows that the meeting held on 29.12.2017 was not valid and the transaction approved in this meeting are also null and void.
 - j) It is also necessary to mention that the complainant did not receive any notice for the Meeting of the Board of Directors of the Company allegedly held on 29.12.2017. He had no knowledge and information of the fact that a meeting of the directors of the Company is being conducted on 29.12.2017.
 - k) CS Manish Kumar Bansal along with CA Meenu Singhal and the respondent had further indulged in the certification of various forged and fabricated documents and after gaining a control over the Board of the Company had appointed himself as one of the directors in the Company vide filing forged and fabricated DIR 12 on 05.02.2018. He was appointed as director of the Company w.e.f 27.01.2018. That on the same day, CA Meenu Singhal resigned from being the director of the said Company. A copy of the form DIR-12 filed for the appointment of CS Manish Kumar Bansal and resignation of CA Meenu Singhal has been attached with Form I.
 - l) On 03.02.2018, Ms. Ruchi Gupta, was appointed as a director and Mr. Bharat resigned from the position of the director of the said company These offences were committed inspite of the fact that the Institute of Company Secretaries of India were issuing guidelines and warning its members to be diligent in the removal/resignation of directors. A copy of the said form (DIR-12) had been attached with Form I.
 - m) That the respondent and CA Meenu Singhal were the other professionals who had acted in collusion and conspiracy with CS Manish Kumar Bansal by indulging in various acts amounting to Professional misconduct under the various acts governing and regulating their profession. CA Meenu Singhal and the respondent had certified and uploaded various false, fabricated and false documents even after full knowledge and information of the true and correct facts of the case.
4. In this regard, the respondent had also made a Complaint with the DCP, Economic Offence Wing, Mandir Marg, New Delhi of the Delhi Police and the complaint was





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said to be under investigation. A copy of the said Complaint was attached with Form I.

5. The complainant requested the Disciplinary Directorate to conduct an immediate inquiry against the respondent and to take immediate action against the professional misconduct and the unethical practice. The complainant's request were:-
 - a) To take penal action against the respondent for violating Companies Act, 2013 and violating code of conduct and the rules prescribed by Institute.
 - b) To cancel the certificate of practice of the respondent with immediate effect or after conducting inquiry in this matter.
6. The respondent was intimated vide letter Ref. No. G/DD/(M-31731/Com-C-64/1)/03/2018 dated 28th March, 2018 to send response to the complaint through a written statement in his defence within 21 days from the date of service of the letter.
7. The respondent vide his letter dated 19th April, 2018 denied the allegations made against him and stated *inter alia* as below:-
 - a) In this complaint, the details provided in several paragraphs were not relevant to him and he was not aware about the subject and related facts on which the complaint had been filed against him.
 - b) He was engaged for the professional certification of certain documents and to that extent he was supposed to be accountable about the basis of his certification and documents verified by him in the course of said certifications.
 - c) As per the records maintained at his office, soft and hard copies both, he had certified following forms on the basis of his verification of documents summarised as follows:-

i. **Form DIR-12 dated 29.12.2017**

The Form was received by the respondent over mail for certification on 22.01.2018 for which he had verified 'Attendance Leaf' and Minutes Books for Board Meetings maintained by the Company. He had taken certified copies of following documents (after verification from original) for his records:

- a) Resignation Letter in Original with signature verified from other records;
- b) Letter of Appointment of Mr. Bharat along with DIR-2 and DIR-8;
- c) Copy of Resolution passed for appointment and resignation.

ii. **Form DIR- 12 filled dated 27.01.2018**





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The Form was received by the respondent over mail for certification on 03.02.2018 for which he had verified 'Attendance Leaf' and Minutes Book for Books for Board Meetings maintained by the Company. He had taken certified copies of following documents (after verification from original) for his records:

- Resignation Letter in Original with signature verified from other records;
- Letter of Appointment of Mr. Manish Kumar along with DIR-2 and DIR-8;
- Copy of Resolution passed for appointment and resignation.

iii. Form DIR- 12 filled dated 03.02.2018

The Form was received by the respondent over mail for certification on 05.02.2018 for which he had verified 'Attendance Leaf' and Minutes Book for Books for Board Meetings maintained by the Company. He had taken certified copies of following documents (after verification from original) for his records:

- Resignation Letter in Original with signature verified from other records;
- Letter of Appointment of Mr. Ruchi Gupta along with DIR-2 and DIR-8;
- Copy of Resolution passed for appointment and resignation.

iv. Form INC -22 filled dated 27.01.2018

The Form was received by the respondent over mail for certification on 03.02.2018 for which he had verified 'Attendance Leaf' and Minutes Book for Books for Board Meetings maintained by the Company. He had taken certified copies of following documents (after verification from original) for his records:

- Photograph of display of name at registered office;
 - Proof of Address and NOC from the owner of the Property;
 - Copy of Resolution passed by the Board.
 - The respondent further stated that being a professional engaged for certification of various forms to be filed in compliance with the provisions of Companies Act, 2013 by the company, they had taken due care and taken for record necessary documents required for the purpose. The complainant had made a complaint against him in Economic Offence Wing, Mandir Marg, New Delhi on the same subject. He was constraint to take necessary legal remedial measures including filling of a case for defamation.
 - Finally, the respondent prayed for closure of such' illogically filed complaint 'at the earliest.
8. The written statement of the respondent was sent to the complainant vide letter Ref. No. G/DD(Gen-1)/Com-C-64/2/05/2018 dated 1st May 2018 for sending rejoinder on the same within 21 days of the service of the letter under reference. The complainant vide his rejoinder dated 28th May 2018 submitted para-wise reply on





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the written statement of the complainant, the salient points of which are given below:

- i. That the contents of Para (i) of the reply to complaint are incorrect and denied. It is denied that the Form was received by the respondent over mail for certification on 22.01.2018 for which the respondent had verified Attendance Leaf and Minutes Books for Board Meetings maintained by the Company. It is denied that the respondent had taken certified copies of certain documents for verification from the original for his records. It is respectfully submitted that no attendance sheets were verified, false and fake Minutes Books for Board Meetings were maintained by the Company. It is submitted that the respondent did not make it a point to confirm the resignation of complainant and his wife before certifying and uploading the documents with the Ministry. The resignation letter filed by the respondent was false and forged and the Board Resolutions passed for appointment of directors and resignation of the complainant and his wife Rekha Gupta are false and forged. It is submitted that the respondent and his wife Rekha Gupta are well-known business persons and enjoy great reputation and respect in the society and are directors and shareholders in number of companies. The company Great Balaji Finbiz Private Limited had been incorporated for carrying on the business of NBFC. Great Balaji Finbiz Private Limited, was incorporated and the complainant and his wife were made Directors in the said Company. The complainant was allotted shares of Rs. 1,50,00,000/- and his wife was allotted Shares of Rs. 50,00,000/- . It is submitted that on 29th December 2018, no notice for Board Meetings were sent to the complainant and his wife Ms. Rekha Gupta. Hence the DIR 12 dated 29.12.2017 are false and forged. This is a case of sheer negligence and exhibits the collective connivance and conspiracy to commit the various offences punishable under the Indian Penal Code, 1860. The respondent had dishonestly and fraudulently misappropriated and converted the property, including the signature of the complainant and his wife Ms. Rekha Gupta and used it for their own purpose. Hence, he was liable to be punished under Section 405 read with Section 406 of the IPC. He had committed criminal breach of trust by forging and uploading the signature of the complainant and Mrs. Rekha on the ROC website, without his consent or knowledge. As such, he is liable to be punished under Section 408 IPC. The respondent had also committed an offence Section 420 of the Indian Penal Code thereby dishonestly cheating the complainant and his wife Rekha Gupta.
- ii. That the contents of para (ii) are incorrect and denied. It is denied that the form was received by the respondent over email for certification on 03.02.2018 for which he had verified Attendance Leaf and Minutes Books for Board Meetings Maintained by the Company. It is denied that the respondent had taken certified copies of resignation letter in original with signature verified from other records. It is a matter of record that the respondent had received letter of Appointment of





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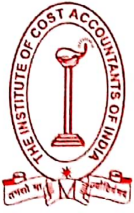
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CS Manish Kumar Bansal alongwith DIR-2 and DIR-8 and other documents incidental thereto. It is submitted that no attendance sheets were verified, false and fake Minutes Books for Board Meetings were maintained by the Company. It is submitted that the respondent did not make it a point to confirm the resignation of the complainant and his wife before certifying and uploading the documents with the Ministry. The resignation letters filed by the respondent are false and forged and the Board Resolutions passed for appointment of directors and resignation of the complainant and his wife Rekha Gupta are false and forged.

- iii. That the contents regarding Form INC-22 of the reply of the respondent are incorrect and denied. It is denied that the Form INC- 22 was received by the respondent over mail for certification on 03.02.2018 for which he had verified Attendance Leaf and Minutes Books for Board Meeting maintained by the Company. The rest is a matter of record. However, the passing of Board Resolution is false, forged and denied. It is submitted that the respondent did not make it a point to confirm that resignation of the complainant and his wife before certifying and uploading the documents with the Ministry. The resignation letters filed by the respondent are false and forged and the Board Resolutions passed for appointment of directors and resignation of the complainant and his wife Rekha Gupta are false and forged.
9. As part of the investigation that the Director (Discipline) was empowered to do u/s 21 of the Cost and Works Accountants Act, 1959, a letter dated 13th September 2021 was sent to the Deputy Commissioner of Police, Mandir Marg Police station, New Delhi where the complainant had filed a police complaint against the respondent as "Accused No. 3" requesting them to intimate the Disciplinary Directorate about the authenticity of the complaint and the status of information in respect of the complaint.
10. In response to the above, a letter No. 2521/Reader/ACP/SEC-VI/EOW, New Delhi dated 5th October 2021 has been received from the Office of the Asst. Commissioner of Police regarding the status of complaint filed by the complainant against the respondent. The relevant portion of the letter states that:
- a) A complaint by Mr. Avneesh Gupta & Rekha Gupta, Directors M/s Great Balaji Finbiz Pvt. Ltd R/o 1634/14, Govindpuri, Kalkaji, New Delhi-19 vide No. C-498/DCP/EOW dt. 30/01/2018 was received at EOW.
- b) This complaint was filed on 31.05.2018 after preliminary enquiry as no cognizable offence was made out from the enquiry.



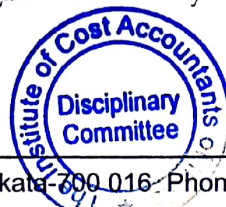


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11. Thus, from the letter No. 2521/Reader/ACP/SEC-VI/EOW, New Delhi dated 5th October 2021, it appears that the police complaint filed by the complainant has not met with any success as after preliminary enquiry no cognizable offence was made out from the enquiry. From the facts and circumstances of the instant case and also on a perusal of Dairy No. D 726 dated 30th January 2018 with EOW, Mandir Marg Police Station, Delhi alleging fraud of Rs 2.15 crore, Director (Discipline) has opined that the respondent (Accused No. 3) is not the main accused but there are reasons to believe that he may have connived with Accused No 1 & 2 who are Company Secretary and Chartered Accountant.
12. The prima facie opinion together with the documents relied upon was placed before the Disciplinary Committee at its 64th meeting held on 4th August 2022. The Disciplinary Committee accepted and agreed with the PFO formed by the Director (Discipline) in terms of Rule 9(2)(a)(ii) of the Rules holding the respondent guilty of violating the following provisions of the Cost and Works Accountants Act, 1959:
 - Clause (7) of Part I of Second schedule to the CWA, Act, 1959
 - Clause (8) of Part I of Second schedule to the CWA, Act, 1959
13. In the same meeting, the Committee discussed and deliberated amongst themselves and opined that there was a prima facie case of misconduct against the respondent. The Committee members directed that disciplinary proceedings are to be continued against the respondent in accordance with law. The prima facie opinion formed by Director (Discipline) against the respondent in terms of Rule 9(2)(a)(ii) was agreed to by the Committee in terms of Rule 9(2)(b) and Director (Discipline) was directed to ensure compliance of Rules 18(2)/18(3) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The Committee members advised Director (Discipline) to give 21 days' time to the respondent file his second written statement.
14. In compliance with such directives of the Disciplinary Committee, a copy of the prima facie opinion dated 4th August 2022 together with the documents relied upon was sent to the complainant vide letter No. G/DD/(Gen-1)/Com-CA(64)/PFO/3/08/2022 dated 18th August 2022 and to the respondent vide letter No. G/DD/Com-CA(64)/PFO/(M-31731)/4/08/2022 also dated 18th August 2022 informing the latter to file a written statement in terms of sub-rule (3) of Rule 18 of the Rules within 21 (twenty one) days from the date of service of this letter. However, the prima facie opinion sent to the respondent under the cover of the letter G/DD/Com-CA(64)/PFO/(M-31731)/4/08/2022 had returned undelivered with the remarks "no such person in this address". The same was sent again, this time to his residential address, with a request to file a written statement in terms of sub-rule (3) of Rule 18 of the Rules within 21 (twenty one) days from the date of service of this letter. However, on this occasion too, the envelope containing the prima facie opinion formed by Director (Discipline) together with the





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documents relied upon and the letter No. G/DD/Com-CA(64)/PFO/(M-31731)/5/09/2022 dated 21st September 2022 was returned undelivered on 10th October 2022 with the remarks "Insufficient Address". Subsequently, a scanned copy of the envelope was attached along with the prima facie opinion dated 4th August 2022 which was emailed to the respondent on 12th October 2022 at or about 1.48 P.M. at his registered email id as an attachment with a request to file a written statement within 21 (twenty one) days from the date of this communication.

15. However, even after a lapse of one month no written statement had been received from the respondent. The respondent was once again intimated vide email No. G/DD/Com-CA(64)/PFO/(M-31731)/7/11/2022 dated 11th November 2022 to file a second written statement at the earliest. The Director (Discipline) apprised the learned members of the Committee that the prima facie opinion dated 4th August 2022 formed against the respondent together with the documents relied upon was sent to the respondent twice (the first one had been returned undelivered), the last time it was emailed on 12th October 2022 at his registered email id with a request to file a written statement within 21 (twenty one) days from the date of this communication. The respondent, however, has not responded to the same. The Committee noted the 'dillydally' tactics of the respondent presumably with a view to drag the disciplinary proceedings. The Committee directed Director (Discipline) to issue notices both to the complainant and the respondent calling upon them to be present at the next hearing of the Committee to make oral submissions, if any, under Rule 18(6) of the Rules.
16. In accordance with such directives of the Disciplinary Committee, notice bearing No. G/DD/(Gen-1)/Com-CA(64)/PFO/4/11/2022 and DD/Com-CA(64)/PFO/(M-31731)/8/11/2022 both dated 18th November 2022 were sent to the complainant as well as to the respondent requiring their presence u/r 18(6) for making oral submissions on 25th November 2022 at 3.00 PM and 3.15 PM respectively. Both the parties have received the emails which is evident from the following email dated 21st November 2022 of the respondent which is reproduced below:

"Dear Sir,

First of all I would like to apologize to you for not being able to reply to your communication in the matter.

I would like to inform you that the communication through a letter dated 21st-Sep-2022 sent by the office could not be delivered as I have vacated the office in the starting of September 2022 itself. I did not update the address as it was not available that time. Your office also communicated to me by mail, but I could not see the important mail, because it stands out in spam and marketing mails. I only saw that mail on 18-Nov-2022 after reading your last email communication.

I am confirming my availability on 25th-November-2022 at 3:15 PM for making oral submission in this matter through video conference.





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With regards,
CMA GAURAV KUMAR
9953986872".

17. In the 69th meeting of the Disciplinary Committee held on 25th November 2022, the complainant appeared through his authorized representative Adv. Aarti (Enrolment No. D35852012) through the virtual mode on the scheduled date and time. The Advocate who was representing the complainant stated that she had not been able to go through the case papers and prayed for a short adjournment. The Committee acceded to the request made on behalf of the complainant and granted the complainant an adjournment in the matter. Director (Discipline) was directed to give another opportunity to the complainant at the next meeting of the Committee to enable him to make oral submissions in terms of Rule 18(6). The respondent appeared through the virtual mode on the scheduled date and time. The charges against the respondent were read out along with the summary of prima facie opinion, as required under Rule 18(7) of the Rules. A questionnaire was read out to him and he was asked to provide replies to the same. The learned members of the Committee asked the respondent to make his submissions before them.

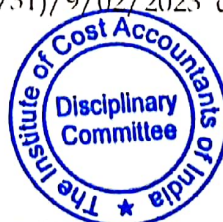
18. The respondent did not plead guilty and stated *inter alia* that:

- i. He said that the prima facie opinion formed against him by Director (Discipline) was not correct which he would like to challenge.
- ii. He was engaged for the professional certification of certain documents and to that extent he was supposed to be accountable about the basis of his certification and documents verified by him in the course of said certifications.
- iii. He has seen the original resignation letter of the Director and verified the signature from other records.
- iv. He had received all forms for certification through emails and had only certified those forms.
- v. He did not upload any form on the MCA portal.

Finally, the respondent submitted that there was neither any fraud nor any forgery or cheating which have been alleged to have been committed by him.

As the respondent did not plead guilty, Director (Discipline) was directed to call the respondent at its next meeting in terms of Rule 18(9) for examination of witnesses and production of documents.

19. In accordance with such directives of the Committee Notice No. G/DD/(Gen-1)/Com-CA(64)/PFO/5/02/2023 dated 3rd February 2023 (followed by email) was sent to the complainant requiring his presence at the Delhi office of the Institute on 11th February 2023 at 12.15 PM for making oral submissions in terms of Rule 18(6) of the Rules. Similarly a Notice No. G/DD/Com-CA(64)/PFO/(M-31731)/9/02/2023 dated 3rd February 2023 (followed by





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email) was sent to the respondent requiring his presence at the Delhi office of the Institute on 11th February 2023 at 12.35 PM for production of documents u/r 18(9) of the Rules.

20. The complainant was present at the Delhi office of the Institute on 11th February 2023 and expressed his willingness to represent him through an authorized representative. Since, the authorized representative was not present at the scheduled date and time no oral submissions could take place of the complainant. The Committee directed Director (Discipline) to afford one final opportunity to the complainant at the next meeting of the Committee to enable him to make oral submissions in terms of Rule 18(6) of the Rules. The respondent appeared at the scheduled date and time in person at the Delhi office of the Institute for examination of witness and production of documents under Rule 18(9) of the Rules. However, in the course of proceedings, he was unable to show the relevant documents and made a request to the Disciplinary Committee to afford him another opportunity for production of documents under Rule 18(9) of the Rules.

The Committee directed Director (Discipline) to afford one final opportunity to the respondent to appear before the Disciplinary Committee in the next meeting of the Committee for examination of witnesses and production of documents under Rule 18(9) of the Rules.

21. In accordance with such directives of the Disciplinary Committee, the complainant was afforded one final opportunity to make himself convenient to appear before the Disciplinary Committee for making oral submissions under Rule 18(6) of the Rules. The respondent was also afforded one final opportunity for production of documents under Rule 18(9) of the Rules. On 26th February 2023, the complainant did not appear at the adjourned meeting. Neither was he represented by an authorized representative. There was no mail or letter either from the complainant stating his inability to appear himself or through an authorized representative.
22. The respondent appeared on the appointed date and time i.e., on 26th February 2023 and made the following submissions before the Disciplinary Committee:
- That he is a fellow member of the Institute in practice.
 - That he had checked all relevant documents before certifying
 - That all relevant documents were received by him through email.
 - That Great Balaji Finbiz (P) Ltd, in respect of which the instant dispute arose, has presently become defunct company.
 - That after the FY 2017-18 no documents of Great Balaji Finbiz (P) Ltd have been filed with the ROC or other statutory authorities.
 - That even as on date the complainant and his wife Mrs. Rekha Gupta continue to be the shareholders of the company Great Balaji Finbiz (P) Ltd
23. Since the complaint hinges on the fact as to whether or not the complainant and his wife were actually removed from being the director of the company illegally by the respondent it





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was thought fit and expedient to ask the respondent if he had actually perused the resignation letter dated 29th December 2017 believed to have been written by the complainant to the Board of Directors of Great Balaji Finbiz (P) Ltd. The respondent replied in the negative and stated that the signed letter dated 29th December 2017 was provided to him by Great Balaji Finbiz (P) Ltd and he did not find any reason to doubt the authenticity of the letter. The respondent further stated that being a professional engaged for certification of various forms to be filed in compliance with the provisions of Companies Act, 2013 by the company, he had taken due care required for the purpose. To this, the learned members of the Disciplinary Committee opined that the respondent should have checked the veracity of the resignation letter of the complainant and should have obtained the document either in person or through email from the complainant which the respondent had not done.

24. At the end of the hearing, the respondent requested to hand over to the Disciplinary Committee certain documents which would go on to prove his innocence. His request was acceded to by the Committee and the respondent handed over the following documents in the matter of resignation of the complainant and Mrs. Rekha Gupta, his wife and appointment of Shri Bharat as director of Great Balaji Finbiz (P) Ltd:
- a) Copy of challan (G.A.R. 7) dated 5th February 2018 evidencing payment of fee for filing Form No. DIR 12.
 - b) Form No DIR 12
 - c) Attendance sheet of 6th meeting of the Board of Directors of Great Balaji Finbiz Private Ltd dated 27th January 2018.
 - d) Copy of minutes of 6th meeting of the Board of Directors of Great Balaji Finbiz Private Ltd held on 27th January 2018.
 - e) Resignation letters dated 29th December 2017 of the complainant and his wife.
 - f) Copy of Form DIR 2 regarding consent of one Shri Manish Kumar Bansal to act as the Director of Great Balaji Finbiz Private Ltd.

Findings

25. The Committee heard the respondent at length and perused all the relevant documents submitted by the respondent. After detailed discussion and deliberation the Committee was of the view that the allegations levelled against the respondent of forgery, cheating, conspiracy and other provisions of Indian Penal Code 1860 do not hold any water. The Committee also noted that the complainant or his authorized representatives have not appeared for the third time for making oral submissions in terms of Rule 18(6) of the Rules. It is therefore, abundantly clear that the complainant has nothing to submit in the matter.
26. The learned members directed Director (Discipline) to communicate with the complainant one final time seeking all the relevant documents/forms etc having bearing to this case for





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expeditious disposal of the complaint. In accordance with such directives of the Disciplinary Committee letters No. G/DD/(Gen-1)/Com-CA(64)/PFO/8/03/2023 dated 2nd March 2023 was sent to the complainant, followed by email on the same date, seeking the following details:

- 1) The date of incorporation of Great Balaji Finbiz Private Limited.
 - 2) The authorized, paid up and subscribed capital at the time of its incorporation.
 - 3) The authorized, paid up and subscribed capital as on 31st March 2022.
 - 4) Copies of the Annual Return [pursuant to Section 92 of the Companies Act, 2013] in MGT 7 during the Financial Years 2017-18, 2018-19, 2019-20, 2020-21 & 2021-22.
 - 5) Copies of Balance Sheet for the Financial Years 2017-18, 2018-19, 2019-20, 2020-21 & 2021-22.
 - 6) Copies of Forms PAS-3 whenever shares have been issued, if any.
 - 7) Copies of DIR-12, DIR-2 since 2017-18.
27. Since no reply was forthcoming from the complainant another letter No. G/DD/(Gen-1)/Com-CA(64)/PFO/9/04/2023 dated 11th April 2023 was sent once again to the complainant followed by an email. However, no response has been received from the complainant till date. The Committee after due deliberation and discussion is of the unanimous view that the allegations levelled against the respondent of forgery, cheating, conspiracy and other provisions of Indian Penal Code 1860 do not hold any water. The Committee also noted that the complainant or his authorized representatives have not appeared for the third time for making oral submissions in terms of Rule 18(6) of the Rules. It is therefore, abundantly clear that the complainant has nothing further to submit in the matter.

Order

28. Thus, there is no misconduct by the respondent, not to speak of any 'professional misconduct'.
29. In view of the foregoing, it is abundantly clear that the complainant has not been able to make out a case in his favour and accordingly, the Board unanimously proceeds to close the matter in accordance with Rule 9(3)(a) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007
30. The matter, accordingly, stands disposed of.




(CMA Vijender Sharma)
PRESIDING OFFICER