The Institute of Cost Accountants of India

Disciplinary Committee u/s 21B of The Cost Accountants Act 1959

Final order number: ICMAI/DC/2026/06

Compliant number	Com/21-CA(108)/2022
In the matter of	CMA Ashishkumar Sureshchandra Bhavsar [Complainant] Vs. CMA Yashodhar Shashikant Thakar (M/9688) [Respondent]
Date of Hearing	As per records and order sheet
Date of order	16th July, 2026

CORAM:

1.	CMA T.C.A. Srinivasa Prasad, President	Presiding Officer
2.	CMA Manoj Kumar Anand	Member
3.	Shri Saraswati Prasad, IAS (Retd.), Government Nominee	Member
4.	Mrs Meenakshi Sharma, IA&AS (Retd.) Government Nominee	Member

PRESENT IN HEARINGS

1.	CMA(Dr) Hemant Kumar Sindhwani	Director (Discipline)
2.	CMA Yashodhar Shashikant Thakar	Respondent
3.	Adv Rahul S Malhotra	Advocate of Respondent

1. The Disciplinary Committee, vide its findings dated 9th March, 2026 held that Yashodhar Shashikant Thakar (M/9688), was guilty of contravention of the following provisions of the Cost Accountant Act, 1959;
   i. clause (3) of Part III of the First Schedule and
   ii. clause (2) of Part IV of the First Schedule, and
   iii. clause (1) of Part II of the Second Schedule

2. Consequent upon the aforesaid findings, action under Section 21B(3) of the Cost Accountants Act, 1959 (hereinafter referred to as "the Act") was contemplated against the Respondent. Accordingly, a Notice dated 17th March, 2026, along with a copy of the Findings, was issued to the Respondent calling upon him to submit his written representation, if any, on the quantum of punishment within ten (10) days from the date of receipt thereof.
3. The Respondent submitted his written representation dated 27th April, 2026, served on 29th April, 2026 vide which he inter alia, contended that a lenient view ought to be taken while determining the quantum of punishment. It was submitted that his request for adjournment of the hearing fixed on 28th January, 2026 was not considered; that the findings do not establish any mala fide intention, wrongful gain, wrongful loss, or prejudice to any stakeholder; that the alleged error in uploading the list of professionals occurred inadvertently during the extraordinary circumstances prevailing during the COVID period and was rectified immediately upon discovery; and that no tender was awarded on the basis of the incorrect list. The Respondent further prayed that the Committee take a compassionate and proportionate view and refrain from imposing any harsh penalty.
4. In accordance with Section 21B(3) of the Act read with Rule 19(1) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 (hereinafter referred to as "the Rules"), a Notice dated 25th May, 2026 was issued to the Respondent, granting him an opportunity of personal hearing before the Disciplinary Committee on 1st June, 2026.
5. On the rescheduled date, the Respondent availed the opportunity of personal hearing and appeared before the Hon'ble Disciplinary Committee through video conferencing, while Shri Rahul Malhotra, Advocate of Respondent, appeared physically on his behalf. Ld counsel reiterated the written submissions dated 27th April, 2026.
6. The Committee took the written submissions dated 27th April, 2026, as well as the oral submissions advanced during the hearing on 1st June, 2026, on record.
7. The committee noted that the Respondent filed Writ Petition No. 5519/2026 before the Hon'ble High Court of Delhi on 14th April, 2026. The principal ground urged in the writ petition is that the findings dated 9th March, 2026 were passed by the reconstituted Disciplinary (2025-26), despite the fact that the entire proceedings, including recording of

The Institute of Cost Accountants of India — Disciplinary Committee evidence, were conducted before the earlier Disciplinary Committee (2024-25), and no oral arguments were heard by the reconstituted Committee. The matter was listed for hearing before the Hon'ble High Court on 24th April, 2026 and during the course of hearing, the respondent/petitioner seeks liberty to withdraw the instant petition with further liberty to take all the grounds at an appropriate stage and Hon'ble High Court has granted the liberty as prayed by respondent/petitioner. In view of the above, the Committee observed that there was no stay order against passing the present order and, accordingly, proceeded with the matter.

8. Upon careful consideration of the material available on record, the Findings rendered by the Committee, the written representation dated 27th April, 2026, and the oral submissions advanced on behalf of the Respondent, the Committee is of the considered view that the Respondent's contention that he was denied an opportunity of being heard prior to the issuance of the findings is wholly misconceived and devoid of merit. The record reveals that the Respondent's request for adjournment was duly considered and rejected by the Committee by way of a reasoned order, and adequate opportunity was afforded to him in accordance with the provisions of the Act and the Rules framed thereunder. The Committee further finds no merit in the contention the inclusion of the names of professionals in the tender documents occurred inadvertently due to the extraordinary circumstances prevailing during the COVID period and that the same was subsequently rectified. The Committee notes that no such defence was raised by the Respondent during the course of the proceedings, either in his written statement, evidence, replies, or even in his detailed concluding written submissions running into 165 pages. The said contention has been raised for the first time at the stage of consideration of punishment and is unsupported by any contemporaneous documentary evidence. The Committee, therefore, views the said plea as a clear afterthought and an attempt to mislead the proceedings. The Committee reiterates that the use of the names of professionals without their knowledge or consent for the purpose of soliciting professional work constitutes a grave breach of professional ethics and integrity, evidences deliberate misrepresentation, and cannot by any stretch be regarded as a mere technical lapse or issue of interpretation

9. Having regard to the gravity, nature, and consequences of the professional misconduct established, the Committee resolved to impose penalties commensurate with the seriousness

of each proved charge. The allegation-wise penalty as determined by the Committee is tabulated below:

S. No.	Allegation No.	Nature of Allegation	Findings	Penalty Awarded
1	Allegation No. 1	Misrepresentation of Firm Name	Not Guilty	No Penalty
2	Allegation No. 2	Use the acronyms "AICWA" on firm letterheads and tender documents instead of "ACMA	Guilty under clause (1) of Part II of Second Schedule	Imposition of penalty of ₹1,00,000/-
3	Allegation No. 3	Inclusion of professionals associated on case-to-case basis in tender documents	Not Guilty	No Penalty
		Inclusion of 8 nos of professionals' names in tender documents without consent	Guilty under clause (3) of Part III and clause (2) of Part IV of First Schedule and clause (1) of Part II of Second Schedule	a) Removal of name from the Register of Members two years b) Imposition of penalty of ₹2,00,000/-

10. In exercise of the powers conferred under Section 21B of the Cost Accountants Act, 1959, the Disciplinary Committee hereby imposes the following consolidated penalty upon the Respondent:

    a) The name of the Respondent is hereby removed from the Register of Members for two years ; and

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA Disciplinary Committee

b) A monetary penalty of ₹3,00,000/- (Rupees three Lakhs only), the bifurcation of which is indicated in the table supra is imposed upon the Respondent.

The aforesaid monetary penalty shall be paid within a period of thirty (30) days from the date of receipt of this Order. In the event of failure to deposit the said penalty within the stipulated period, the name of the Respondent shall stand removed from the Register of Members for a further period of one (1) year in addition to the period specified hereinabove.

CMA T.C.A. Srinivasa Prasad

PRESIDING OFFICER

Shri Saraswati Prasad, IAS (Retd.)
GOVERMENT NOMINEE

Mrs. Meenakshi Sharma IA &AS (Retd.)
GOVERMENT NOMINEE

CMA Manoj Kumar Anand

MEMBER

Place: New Delhi
Date: 16^{th} July, 2026

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA
Disciplinary Committee

Distribution under Rule 19(3) of the Rule, 2007

1) Director(Discipline), Institute of Cost Accountant of India
2) Complainant, CMA Ashishkumar Sureshchandra Bhavsar (M/49954)
3) Respondent, CMA Yashodhar Shashikant Thakar (M/9688) [Respondent]

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

Complaint No. Com/21-CA(108)/2022 –

CMA Ashishkumar Sureshchandra Bhavsar (M/22646) [Complainant]

Vs.

CMA Yashodhar Shashikant Thakar (M/9688) [Respondent]

Findings of Disciplinary Committee under rule 18(17) of The Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007:

1. The Disciplinary Directorate is in receipt of a complaint in Form I dated 7th June 2022 in triplicate together with the prescribed complaint fee of Rs 2950/- (inclusive of GST) from CMA Ashishkumar Sureshchandra Bhavsar (hereinafter referred to as the "complainant"), bearing membership number 22646 against CMA Yashodhar Shashikant Thakar (hereinafter referred to as the "respondent") bearing membership number 9688, containing certain allegations against the respondent falling under various provisions of the Cost and Works Accountants Act, 1959.
2. The complaint consists of 29 pages (including annexure). For the sake of convenience, Form I is reproduced below in verbatim:

FORM I

[See sub-rule (1) of Rule 3]

1.	Name of the Complaint: (With membership number, if member of *Institute of Cost Accountants of India)	CMA Ashishkumar Sureshchandra Bhavsar (M/22646)
2.	Name of the member/firm against whom complaint is being made: (With membership number/registration number of the firm, if known)	CMA Yashodhar Shashikant Thakar (M/9688)

3.	Latest address of the complaint for communication	916, Shiromani Complex, Opp. Ocean Park, Nehrunagar, Satellite Road, Ahmedabad, Pin Code- 380015 Email: cmaashishbhavasar@gmail.com
4.	Last available professional address of the member or the firm against whom the complaints is made	305, 3rd floor, Centre Wing, Ujjawal Complex, Near Akota Stadium, Vadoara-390020 Email: ysthakar@gmail.com
5.	Particulars of allegation(s), serially numbered together with corresponding clause/part of the relevant Schedule (s), or Particulars of allegation(s) serially numbered together with clause/part of the relevant Schedule(s) under which the alleged acts commission or omission or both would fall.	As per Annexure- 1

6.	Particulars of evidence(s) adduced in support of the allegation(s) made	1. Copy of Letter head of M/s. Y.S. Thakar & Associates used for tender SECL. (Attachment- 1) 2. Copy of List of members on roll as on 01.01.2020 submitted by M/s. Y.S. Thakar& Associates as part of tender document to SECL. (Attachment- 2) 3. Copy of RTI Reply by Gujarat State Electricity Corporation Limited (Attachment- 3) 4. Mr. Murlider Jagetiya's membership information with The Institute of Chartered Accountants of India. (Attached- 4) 5. COP Status of CMAs on Roll on ICAI Website. (Attachment- 5)
7.	Name(s) of person who have knowledge of the facts of the case.	Not known.

3. The complainant has annexed with his complaint, an annexure (Attachment-1) containing particulars of allegations and attachments numbered from 1 to 5 containing evidences in support of the allegations made. The allegations of the complainant, *inter alia* are stated hereunder:
    i. South Eastern Coalfield – SECL had issued e-Expression Notice (NIT No. SECL/BPS/CMC/eEoI/406/27-06-2020) for empanelment and selection for appointment of cost auditor of SECL for financial year 2020-21 & 2021-22.
    ii. The respondent, a proprietor of M/s. Y.S. Thakar & Associates (FRN 100463) had applied for the said tender ''with several factually incorrect information to SECL to get the cost audit.'' Such details are as under:
        - On firm's letter heads CMA Y.S. Thakar has mentioned his degree as AICWA instead of ACMA.

- On said letterhead of M/s. Y.S. Thakar & Associates, the respondent had applied a rubber Stamp which reads "Y.S. Thakkar & Associates". He has used words "Thakkar" in place of "Thakar".
- Both these acts, according to the complainant, are of sheer negligence by a professional cost Accountant which invites disrepute the Institute under clause (2) of Part IV of first schedule of the Act.

iii. M/s. Y.S. Thakar & Associates, a sole proprietor firm of cost accountant has reported 13 Cost Accountants on the rolls of the firm as on 01.01.2020 and has shown date of joining of respective cost accountants as a part of tender document. On verification of the said details, it was found that –

a) Out of 13 cost accountants 11 cost accountants were holding certificate of practice as on 01.01.2020.

While applying for COP as well as renewal of COP, a member is supposed to declare that he is not holding employment in any organisation or under any person and further he has to confirm the information provided in FORM M-3 are correct as part of the verification. This list has been produced as a list of CMAs on his firms roll with malafide intention to deceit the M/s. SECL.

This clearly indicates that either all these CMAs have connived with him or CMA Y.S. Thakar has misrepresented the facts. This is a professional misconduct and has brought disrepute the Institute under clause (2) of Part IV of first schedule of the Act.

b) Again, out of 13 cost accountants 2 cost accountants were not holding COP as on 01.01.2020. CMA M.B. Kaka (M-13599) was in full time employment with Gujarat State Electricity Corporation Limited, a public sector undertaking of Government of Gujarat, as CFO & KMP till 28.02.2018. This has been confirmed by Gujarat State Electricity Corporation Limited under RTI reply. The respondent had shown him on his rolls from 01.08.2017 (i.e. Prior to his retirement). This indicates that the respondent has given misstatement to deceit the M/s. SECL a government company.

Another CMA Murlidhar Jagetiya (M-43616) was earlier holding COP of the Institute of Cost Accountants of India. He is also qualified Chartered Accountant and also member of The Institute of Chartered Accountants of India. As per the information available on Chartered Accountant institute's website, he is holding full time COP of Chartered Accountant.

This clearly indicates that the respondent has misrepresented the facts. This is a professional misconduct and has certainly brought disrepute the Institute under clause (2) of Part IV of first schedule of the Act.

c) The complainant has furnished a statement showing details of CMAs on roll of M/s. Y.S. Thakar & Associates and relevant data as downloaded from the Institute website reveals the following:

Sr. No.	Name	Membership No.	Class of Membership	Date of Joining	Whether COP holder (As on 03.06.2022)	Date of Constitution of Proprietary Firm)*
1.	YashodharThakar	9688	Fellow	Proprietor	Yes	
2.	Malay Hapani**	44244	Associate	01.04.2019	No.	
3.	Birendra Prasad	42288	Associate	01.11.2019	Yes	24.04.2017
4.	Md. Shamim Ansari	43940	Associate	01.12.2017	Yes	16.05.2018
5.	Mukesh Kaka***	13599	Associate	01.08.2017	No	
6.	Vishal Shah	31980	Associate	01.12.2013	Yes	16.04.2019
7.	JayeshPrajapati	26584	Associate	01.12.2012	Yes	05.09.2011
8.	Zarna Shah	45876	Associate	01.10.2014	Yes	03.01.2019
9.	Ankit Gupta	37696	Associate	01.01.2016	Yes	04.08.2017
10.	MurlidharJagetiya ****	43616	Associate	01.01.2015	No	
11.	Santosh Jejukar	10022	Associate	01.01.2014	Yes	10.05.2013
12.	HeenaDoshi	30713	Associate	01.03.2018	Yes	30.08.2011
13.	Saurabh Kumar	47658	Associate	01.12.2019	Yes	18.11.2019

Headquarters:
CMA Bhawan, 3 Institutional Area,
Lodhi Road, New Delhi-110003
Phone : +91-11-24622156-57-58
Website : www.icmai.in

14.	Amit Sinha	44797	Associate	01.01.2019	Yes	16.04.2019

* Details collected from the institute's website

** It is understood that CMA Malay Hapani was holding COP in past.

*** CMA Mukesh Kaka retired from GSEC Limited on 28.02.2018 as a CFO & GM (Finance).

**** It is understood that CMA MurlindharJagetiya was holding COP in past.

d) By committing the above-mentioned violations, the respondent has also violated clause (1) of Part II of Schedule II of the CWA Act, which states that a member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, of the contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council.

The complainant concludes by stating that from the above violations committed by the respondent, it is evident that he has no respect for rules of the Institute and his acts are unbecoming of a senior member. I would request you to take disciplinary action on the above-mentioned serious violations in the interest of the Institute.''

4. The above complaint was scrutinized and was registered in terms of Rule 5 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 and the same was proceeded with in the manner as prescribed in Chapter III of the Rules and was registered by the Disciplinary Directorate by giving a unique number, **Information No. Com/21-CA(108)/2022**.

5. The complaint dated 7th June 2022 which was received by the Disciplinary Directorate on 17th June 2022 was duly forwarded to the respondent vide letter No. G/DD/Com-C-108/(M-9688)/01/07/2022 dated 8th July 2022 requesting the respondent to respond within 21 days from the date of service of the said letter. The respondent, however, by an email dated 5th August 2022 (followed by a hard copy of the mail) received by the Disciplinary Directorate at or around 10.42 AM prayed for extension of time up to 25.08.2022 citing his mother's serious illness. Such a request of the respondent was acceded to by the Disciplinary Directorate and the permission for extension of time to submit the written statement by the respondent on or before 20th August 2022 was granted by the Disciplinary Directorate, vide email dated 5th

August 2022 sent at or around 3.13 PM. A hard copy of the letter No. G/DD/Com-C-109/(M-9688)/02/08/2022 dated 5th August 2022 was also sent to the respondent to this effect.

6. As the response through a written statement did not reach the Disciplinary Directorate even on 20th August 2022, an email dated 22nd August 2022 was sent to the respondent with a request to expedite submitting the written statement at the earliest. This was followed by a hard copy of the letter No. G/DD/Com-C-109/(M-9688)/03/08/2022 dated 22nd August 2022 conveying the same message as in email of 20th August 2022.

7. The respondent, vide letter dated 19th August 2022 (received by the Disciplinary Directorate on 23rd August 2023) sent his written statement of five pages, which is reproduced below in verbatim:

Quote:

"Respected Sir,

Reg. : My written statement in response/defence to the complaint in Form 1 filed by CMA Ashishkumar Sureshchandra Bhavsar on 8.7.2022

Ref. : Complaint No. Com/21-CA(108)/2022 dated July 8, 2022.

At the outset I am grateful for granting extension of time to send this communication as conveyed by your letter dated 05.08.2022. My reply to the aforesaid complaint and annexures is as under:

1. The complainant is a professional brother who it seems has unfortunately out of professional jealousy created this complaint which is figment of his own imagination. It may please be appreciated that the date typed on the complaint is 7.6.2022 and it bears the date 8.7.2022 in handwriting. Thus prima facie it appears the complaint runs a factory of fake complaints and the complaint was a "stock in process" for almost a month and then sent to the Institute.

2. The absurdity of the complaint also gets further established by what the complainant states in Column 7 of the complainant.

7.	Name(s) of person who have knowledge of the facts of the case.	Not known.

Thus the complainant himself is admitting that he is not aware of any person having knowledge of facts of the case. Thereby he implies that this is a "shot in the air" to harass and blackmail the undersigned who has an unblemished professional record of 35 years. During this long period, I have not only given efficient services to the clients but also wholeheartedly worked for dedicating my best to strengthen the activities of Vadodara Chapter.

3. It seems the complaint is totally misconceived and false because the complainant himself is not clear as to under which particular clause he is actually complaining. In his particulars of allegation, he has referred to clause 2 of Part 5 of First Schedule of the Cost and Works Accountants Act 1959. Thereby he alleges that **"the member brings disrepute to the profession or to the Institute as a result of his action whether or not related to the professional work."**To superficially substantiate his allegation, the complainant has alleged on Pg. 4 of the complaint that "**CMA Y S Thakar has forged misrepresented the facts."** Thus the enthusiastic jealous professional brother does to hesitate even to invoke the criminal law without understanding its consequences. By making such casual allegation, he has himself brought disrepute to him as member and also made him liable for criminal and civil defamation by baselessly alleging forgery.

   As far as the order members named in complaint are concerned, CMA M.B. Kaka is also one of the very senior person who has given his services to the Institute and is one of the senior most members of the profession in Baroda and Gujarat. Incidentally the complaint is trying to fire his shot by putting his gun on the shoulder of SECL, a Govt. company and subsidiary to Coal India Ltd. This company has no issue whatsoever in the matter.

   It is a growing practice among the members that our members including the members from other professions like CA, CS. Lawyers use the word "associates" with their name. In my case I had followed all due procedure and the Institute vide its letter dated 26.11.2012 had given authority that **"you have been permitted to practice in the name and style of Y.S. Thakar and Associates."** This is the name of my firm/sole proprietorship and it is not a separate legal entity different form myself. Going by the well accepted principle of Contract Act an employment being a contract, I cannot employ myself which is the allegation against me. True, I am the team leader and in that capacity, my name has been mentioned.

   I further state that the only allegation against CMA Mukesh Kaka is that Mukesh Kaka has already retired on 28.1.2018 and he is a retired senior citizen aged 63 years plus. He was never employed with us nor had the occasion to draw any salary from our firm. The complainant has enthusiastically (actually blindly) put up the list to create a case for him which in fact and effect does not exist. I may further add that attempt by inadvertence and typographical error which adapting tables some mistakes might have occurred but the fact remains that our firm has **"neither paid or allowed or agreed to pay, directly or indirectly to any person any share in the emoluments of the employment undertaken."** Thus the list of persons who are described as COP holders are also wrongly mentioned because the whole list is not the correct list as the list on the record of the firm.

4. As far as SECL tender is concerned, as per their procedure a presentation is the important beginning point and unless the tenderer successfully completes this stage, the

question of his getting approved for tender does not survive. This is the stage when the employees and their presentation becomes crucial and none of the persons who have been named by the complainant except the undersigned were at all in the list of employees. Thus the complainant is vehemently busy in fabricating false evidence and unauthenticated papers.

5. The correct position is that our firm "Y. S. Thakar and Associates" has successfully discharged his duties and obligations under the tender and scope of our assignment will extinguish in September 2022, i.e. next month. We have successfully discharged our obligations complying with the highest and strictest standards for which neither the client nor any other person except the complainant has the problem. In fact the complainant aspires to cleanse such tenders and hence to vitiate the atmosphere and create pressure he is resorting to such below the belt tactics.

   I have a further duty and obligation to point out that the complainant CMA Ashishkumar Sureshchandra Bhavsar (Membership No. 22646) is himself known for false and frivolous complaints and indulging in unethical activities which are absolutely in contravention of the Institute's laid down norms. I as a senior member had politely persuaded him not to indulge in such acts and even after that when he persisted, I have myself taken the initiative of filing the complaint and pointed out the specific facts. The present complainant CMA Ashishkumar boasts that **"nothing is going to happen to me because I am Secretary of WRIC and see to it that no action is taken on complaint against me."** There are many large firms also who are indulging in similar practices.

6. As far as the allegation in complaint regarding my being described as the degree of AICWA, I may submit that this change has been introduced before 3 to 4 years and prior thereto all of us were known as "AICWA". Hence the change from "AICWA" to "ACMA" is already introduced and implemented on my letterheads but while taking a computer print by the clerical staff, some mistake might have occurred and the complainant as per his usual habit it trying to create mountain out of the mole.

   As far as the surname "Thakar" which is my correct surname has been somewhere by typographical error appearing as Thakkar. Incidentally there are spelling variations in resembling surnames in Gujarat such as Thaker, Thakar, Thakkar, Thakor, Thakur and many more. This is not the case of my impersonating somebody as Thakkar and the unintended mistake, if any has been already corrected.

7. I understand that comparable bodies like Bar Council of India and State Bar Council as also the CA Institute insist for the complaint on affidavit and it is high time that to reduce the irresponsible, malicious and frivolous complaints we need to introduce the system of affidavit.

   I am grateful for the opportunity accorded to me despite the delay constraint and I shall be glad to provide all such information within my command including all clarifications as and when required and called upon by the Institute. If any response to this submission is received from the complainant, kindly direct him to provide a copy thereof to me.

Thanking you,

CMA Yashodhar Thakar''

Unquote

8. The written statement dated 19th August 2022 was forwarded to the complainant under the cover of letter No. G/DD/Com-CA(108)/02/08/2022 dated 26th August 2023 for forwarding his rejoinder in terms of sub-rule (4) of Rule 8 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The complainant, vide his letter dated 13th September 2022 forwarded his three-page rejoinder which is reproduced below in verbatim:

Quote:

''Dear Sir,

Sub: Rejoinder to reply by CMA Yashodhar Sashikant Thakar against Complaint No. Com/21-CA(108)/2022.
Ref.: G/DD/Com-CA(108)/02/08/2022 dated 26th August, 2022
I am in receipt of defence statement from CMA Y.S. Thakar against my Complaint (Com/21-CA/(108)/2022) dated 19.08.2022.

1. Respondent has tried to find and point out faults with the complaint on flimsy grounds as mentioned below:
   i. Respondent has tried to dispute the validity of the complaint on the ground that dates mentioned on the complaint are different.

   Respondent is talking about hand written date 08th July 2022. It seems respondent is unaware of the disciplinary procedure of the Institute. As a part of procedure an official of Disciplinary Directorate, identifying document along with his initials. Thus, respondent is talking about had written date of 08th July 2022, which may be a date written by the Director discipline.
   The respondent has tried to mislead and to create confusion about the correctness and validity of the complaint and thereby he trying to establish that the complaint is defective ab initio.
   I had signed the complaint on 07th June, 2022, which was received at your end on 17th June, 2022. I have also received letter of admission of complaint from your office dated 23rd June, 2022.
   ii. The respondent is trying to establish that at point no. 7 of the complaint in Form- I **"Name(s) of person who have knowledge of the facts of the case".**As a complainant. I have not mentioned any name of witness, and the complaint is defective ab initio as per his belief.
   It may be noted that in case of all offenses, there is no need to have present of any witness. As per my understanding, this point is for about name of person(s) other than complainant. The respondent is well aware about the fact that he has

knowingly and frequently made false statements by showing names of persons who are not on his firm's role. When I came to know about this fraudulent and unprofessional approach in his tender document to grab the cost audit, I have made a complaint with sufficient documentary evidences.

Hence, there is no need of any witness.

Instead of replying point to point basis on my complaint, the respondent is trying to find faults with the complaint itself. He is trying to prove that the Disciplinary Directorate has not reviewed the complaint before admitting the same.

iii. Respondent claims that any document downloaded from the website of the Institute is are unreliable as they are not authenticated hence, they are of no value.

On the other hand, he has attached such downloaded documents as a part of tender application and he has verified that those documents are true.

Documents produced as evidence are adduced in support of the allegations made are mainly either downloaded from Institutes website or documents which were submitted by respondent as part of tender document.

iv. Respondent has admitted that there was typographical error made at table of "List of Cost Accountant on Roll as on 01.01.2020".

As per the e-Expression Notice (NIT No. SECL/BPS/CMC/eEoI/406/27-06-2020) for empanelment and selection for appointment of cost auditor of SECL for financial year 2020-21 & 2021-22 issued by M/s. South Eastern Coalfields Ltd. – SECL, Selection Criteria had two part – Part A and Part B. Part A has six different selection criteria with different weight of marks. Total of all criteria is 100 Marks. 10 marks is given for "Number of fully qualified and semi qualified assistants (Cost/Chartered Accountant) in the Firm". Respondent had submitted "List of Cost Accountants on Roll as on 01.01.2020" for getting maximum marks in this.

Now, he is saying that there were typographical mistakes in whole table!

After considering Part-A of selection criteria, the shortlisted firms securing a minimum qualifying mark of 60 (sixty), where been invited for PART- B of Selection criteria i.e., making presentation before Audit Committee. Hence, Respondent has made false list of Cost Accountant on his Roll as on 01.01.2020 to get maximum marks in PART A of selection criteria.

As per his defense, whole list is typographical error. Sir, how can one make so many typing mistakes? It seems, he trying to mislead disciplinary director.

v. Regarding use of AICWA, respondent himself admits that there is mistake. Such a mistake is nothing but a gross negligence on the part of a practicing professional cost accountant. The change from AICWA to ACMA was introduced, way back in 2012, through change in the Act by the Govt. of India.

He has simply admitted his gross professional negligence.

Further, he has tried evade my allegation about use of wrong word in his name on rubber stamp – 'Thakkar' in place of 'Thakar' by simply saying that it was a typographical mistake. It may be noted by affixing of any seal/Rubber stamp by a person on any document provides confirmation about its correctness in the eyes of receiver/user of such document. When it is affixed by professional it adds high value.

The use of wrong stamp is nothing but a gross professional negligence and there by bringing disrepute to the Institute.

2. Respondent has understood that he has no genuine reason to challenge allegations made in the complaint, he has made baseless and imaginary allegations that I have threatened him as a secretary of WIRC.
   I vehemently deny such allegations. He is unaware that Disciplinary Directorate of the Institute is an independent authority and it is Quay-Judicial Authority an organ of Government other than a Court or Legislature, which affects the rights of members either through adjudication where even central council of the Institute has no power to intervene. While I being a Regional Council Member, how can I intervene?
   Respondent has not able to defend the allegations made in the complaint. Hence, the respondent is trying to malign my reputation as a regional council member of the Institute in his response.
   Based on the above discussions, we are sure that the Directorate shall consider all allegations as proved.
   Thanking you and looking forward for prompt actions.
   Yours faithfully,
   CMA Ashishkumar Sureshchandra Bhavsar''

Unquote

9. **Comments from Disciplinary Directorate**

On a careful perusal of the complaint dated 7th June 2022, the written statement dated 19th August 2022 of the respondent and the rejoinder dated 13th September 2022 of the complainant, it is seen that the complaint is mainly on the following counts:

i. In the Letter of Undertaking addressed to South Eastern Coalfields Ltd, the respondent who happens to be a proprietor of M/s. Y.S. Thakar & Associates (FRN 100463), had applied for the said tender with the following information:
   - On firm's letterheads the respondent has mentioned his degree as AICWA instead of ACMA.
   - On said letterhead of M/s. Y.S. Thakar& Associates, the respondent had affixed a round shaped rubber Stamp which reads "Y.S. Thakkar & Associates" instead of ''Y.S. Thakar & Associates.''

   Both these acts, according to the complainant, are of sheer negligence by a professional cost Accountant which invites disrepute the Institute under clause (2) of Part IV of first schedule of the Act.

ii. The respondent, a proprietor of M/s. Y.S. Thaker & Associates, Cost Accountants has reported 13 Cost Accountants on the roll of the firm as on 01.01.2020 and has shown date of joining of respective cost accountants as a part of tender document. The complainant, on verification had found out that

- Out of 13 cost accountants 11 cost accountants were holding certificate of practice as on 01.01.2020.
- Again, out of 13 cost accountants 2 cost accountants were not holding COP as on 01.01.2020. CMA M.B. Kaka (M-13599) was in full time employment with Gujarat State Electricity Corporation Limited, a public sector undertaking of Government of Gujarat, as CFO& KMP till 28.02.2018. This has been confirmed by Gujarat State Electricity Corporation Limited under RTI reply. CMA Y.S. Thakar had shown him on his roll from 01.08.2017 (i.e. Prior to his retirement). The respondent may have connived with CMA M.B. Kaka to mislead the prospective client.
- Another CMA Murlidhar Jagetiya (M-43616) was earlier holding COP of the Institute of Cost Accountants of India. He is also a qualified Chartered Accountant and also member of The Institute of Chartered Accountants of India. As per the information available on Chartered Accountant institute's website, he is holding full time COP of Chartered Accountant.

This clearly indicates that the respondent has misrepresented the facts. This is a professional misconduct and has certainly brought disrepute the Institute under clause (2) of Part IV of first schedule of the Act.

10. Investigation and Analysis

a) As part of the investigation that Director (Discipline) is empowered to do u/s 21 of the Cost and Works Accountants Act, 1959, a letter dated 6th July 2023 (followed by emails on the same date) was addressed to the following persons whose names were given by the complainant in his complaint (as Attachment-2) and whose names also purportedly appear in the letter head of M/s Y.S. Thakar & Associates under the heading ''List of Cost Accountants on the rolls as on 01.01.2020:

Sl No.	Letter No	Name of the person
1	G/DD/Com-CA(108)/(M-42288)/1/07/2022	CMA Birendra Prasad

Headquarters:
CMA Bhawan, 3 Institutional Area,
Lodhi Road, New Delhi-110003

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

2	G/DD/Com-CA(108)/(M-44244)/1/07/2022	CMA Malay Hapani
3	G/DD/Com-CA(108)/(M-43940)/1/07/2022	CMA Md. Shamim Ansari
4	G/DD/Com-CA(108)/(M-31980)/1/07/2022	CMA Vishal Shah
5	G/DD/Com-CA(108)/(M-26584)/1/07/2022	CMA Jayesh Prajapati
6	G/DD/Com-CA(108)/(M-45876)/1/07/2022	CMA Zarna Shah
7	G/DD/Com-CA(108)/(M-37696)/1/07/2022	CMA Ankit Gupta
8	G/DD/Com-CA(108)/(M-43616)/1/07/2022	CMA Murlidhar Jagetiya
9	G/DD/Com-CA(108)/(M-10022)/1/07/2022	CMA Santosh Jejurkar
10	G/DD/Com-CA(108)/(M-30713)/1/07/2022	CMA Heena Doshi
11	G/DD/Com-CA(108)/(M-47658)/1/07/2022	CMA Saurabh Kumar
12	G/DD/Com-CA(108)/(M-44797)/1/07/2022	CMA Amit Sinha

b) The content of the letters dated 6th July 2022 sent to the above mentioned persons is reproduced here below:

Quote:

''Sub:- Your employment with M/s Y S Thakar & Associates, (FRN 100463) – Clarification Regds

Dear Sir,

This communication is being made under Section 21 of the Cost and Works Accountants Act 1959 and the provisions of the Cost & Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 as amended, in connection with certain disciplinary complaint filed against a member of this Institute.

It is given to understand that in response to a tender floated by a public sector undertaking, CMA Yashodhar Shashikant Thakar, bearing membership number 9688 has, as on 1st January 2020, declared you on the rolls of his firm M/s Y S Thakar & Associates, Proprietor (FRN 100463), with effect from 1st April 2019. Whereas as per the Institute's records you are holding Certificate of Practice (CoP) and while applying for CoP / CoP renewal, you have not disclosed such facts to the Institute.

In this connection, you are requested to clarify within a period of 10 days from the receipt of this communication as to whether you are / were at any time an employee of M/s Y S Thakar & Associates (FRN 100463). Non-compliance, if any, shall amount to violation as defined in clause (2) of Part - III of the First Schedule of the CWA Act, 1959 which reads:-

"A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he does not supply the information called for, or does not

comply with the requirements asked by the Institute, Council or any of its committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority. "

Yours faithfully,''

Unquote

c) A letter No. G/DD/Com-CA(108)/(M-13599)/1/07/2022 dated 7th July 2022 was addressed to CMA Mukesh Kumar Bapulal Kaka. The content of the instant letter is reproduced here below:

Quote:

''Sub:- Your employment with M/s Y S Thakar & Associates, (FRN 100463) – Clarification Regds

Dear Sir,

This communication is being made under Section 21 of the Cost and Works Accountants Act 1959 and the provisions of the Cost & Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 as amended, in connection with certain disciplinary complaint filed against a member of this Institute.

It is given to understand that in response to a tender floated by a public sector undertaking, CMA Yashodhar Shashikant Thakar, bearing membership number 9688 has, as on 1st January 2020, declared you on the rolls of his firm M/s Y S Thakar & Associates, Proprietor (FRN 100463), with effect from 1st August 2017. As per the records available with the Institute, on the said date you were in full time employment with Gujarat State Electricity Corporation Ltd, Vadodara in the capacity of CFO & Chief General Manager (Finance).

In this connection, you are requested to clarify within a period of 10 days from the receipt of this communication as to whether you are / were at any time, an employee or Partner of M/s Y S Thakar & Associates (FRN 100463). Non-compliance, if any, shall amount to violation as defined in clause (2) of Part - III of the First Schedule of the CWA Act, 1959 which reads:-

"A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he does not supply the information called for, or does not comply with the requirements asked by the Institute, Council or any of its committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority. "

Yours faithfully,''

Unquote

d) CMA Ankit Gupta, vide his email dated 8th July 2022 received at or around 1.58 PM replied as follows:

''Dear Sir,
Thanks for contacting. I am not aware of these developments. I have never been in any employment after taking CoP in August 2017. I would like to see if there is my signature on the said employment declaration as evidence of complaint.
Pl. let me know if there any help required from my side in this investigation.''
Thus, CMA Ankit Gupta categorically denied being in employment.

e) CMA Santosh Jejurkar, vide his email dated 11th July 2022 received at or around 10.42 AM replied as follows:

''Sir,
This refers to an email on the above referred reference and subject dated July 06, 2022 seeking information on my employment with M/s Y S Thakar & Associates, FRN 100463.
On this subject and reference I would like to state as under:
1) I am not in employment with M/s Y S Thakar & Associates - FRN 100463
2) We are professionally associated on need based assignments.
3) Till 2013, I was in employment with M/s Alembic Limited, Vadodara before applying for COP.

Thanking you.''
Thus, CMA Santosh Jejurkar categorically denied being in employment.

f) CMA Saurabh Kumar, vide his email dated 11th July 2022 received at or around 5.29 PM replied as follows:

"Dear Sir/ Madam,
I don't have job agreement with Y.S. THAKAR and also i don't given any consent to him. I don't know about this.
Thanks and Regards''
Thus, CMA Saurabh Kumar categorically denied being in employment.

g) CMA Murlidhar Jagetiya, vide his email also dated 11th July 2022 received at or about 5.53 PM replied as follows:

''Dear Sir/Madam,
With reference to above, kindly note that I am a Practicing Chartered Accountant since November 2018 and I am/ was not associated with M/s Y S Thakar & Associates (FRN 100463) either in practice or in employment.
I am a practicing Chartered Accountant
Thanks and Regards''
Thus, being a Chartered Accountant in practice, there is no question of CMA Murlidhar Jagetiya being in employment.

h) CMA Birendra Prasad, vide his email dated 12th July 2022 received at or around 12.18 PM replied as follows:

"Dear Sir,
I am not aware of any facts, and I am not employed with M/s Y S Thakar &Associates.
With this I am ending my words.
Thanks & Regards''

Thus, CMA Birendra Prasad categorically denied being in employment.

i) CMA Jayesh Prajapati, vide his letter dated 12th July 2022 stated that he is a Partner of M/s Y.S. Thakar & Co. (FRN 000318).

j) CMA Malay Hapani, vide his email dated 12th July 2022 received at or around 6.51 PM replied as follows

''Dear Sir,
With reference to the trailing email, I would like to clarify that I am not aware of any such facts and I have never given any consent for the same to anyone.
Regards,''

Thus, CMA Malay Hapani not only denied being in employment but also is not aware of any such facts as stated by him in his email of 12th July 2022.

k) CMA Zarna Shah vide her email dated 15th July 2022 received at or around 11.41 PM replied as follows:

"Respected sir,
This is in reference to notice received with Subject " Your employment with M/S Y S Thakar & Associates, (FRN 100463) - Clarification Regds "
My name is Zarna Shah (M - 45876), cleared CMA final year exams in June 2018 and received a degree of Qualified Cost Accountant.
I was under employment with Paul Mason consulting Pvt Limited, Y S Thakar & Associates, Soham classes and various other small organisations prior to 31st December 2018 but from 2019 I started my own practice by applying for COP and received COP from 3rd January 2019 for my own individual practice.
Also from June 2019, I am in partnership with Y S Thakar & Co. and I am not an employee of Y S Thakar & Associates.
Kindly let me know if any other information is required from my side or clarification in response to the notice received by the courier and the same is attached to this mail as well.
Also let me know if this is to be directed to any other email id or concern person so that my response is registered.''

Thus, CMA Zarna Shah was not in employment since 2019 though she is a Partner of M/s Y.S. Thakar & Co.

l) CMA Heena Doshi vide her letter dated 13th July 2022 (received by this Directorate on 18th July 2022) stated that she is/was not in employment of M/s Y.S. Thakar & Associates (FRN 100463) either from 1st April 2019 or at any time. She also stated that "I am totally unaware of the fact that my name has been declared as an employee of any firm in response to a tender of any PSU.

Thus, CMA Heena Doshi categorically denied being in employment.

m) CMA Md. Shamim Ansari vide his email dated 15th July 2022 received at or around 6.28 PM replied as follows:

''Respected Sir/Madam,
I am not aware of any such fact and I have never given my consent to act as an employee in any firm after obtaining certificate of Practice.
Thanks & Regards''
Thus CMA Md. Shamim Ansari categorically denied being in employment.

n) CMA Vishal Shah vide his email dated 15th July 2022 received at or around 6.47 PM replied as follows:

"Dear sir
I have not given any consent to any firm regarding employment.
I am not aware of any such fact as per trailing mail
Regards''

Thus CMA Vishal Shah not only denied being in employment but stated that he was not even aware of any such fact of being his name shown on the rolls of M/s Y.S. Thakar & Associates.

o) CMA M.B. Kaka, vide his letter dated 1st August 2022 stated that he had retired from service on 28th February 2018 and had obtained Certificate of Practice (CoP) w.e.f. 25th May 2018. He further stated that the respondent was a very close friend of his from his student days and he has to work, guide, help and advice to all his friends including the respondent. He further stated that he has family relationship with the respondent and therefore he was not an employee of M/s Y.S. Thakar & Associates.

Thus, none of the 13 members whose names have been shown in the rolls of MY.S. Thakar & Associates were in employment in his firm as on 01.01.2020.

p) An email dated 17th November 2023 was sent to the Membership Department at or about 12.12 PM seeking certain clarification. The Membership Department, vide their email dated 20th November 2023 received at or about 6.11 PM stated as follows which is reproduced below:

(i)	'Does a firm by the name of M/s Y.S. Thakar & Associates exist in the Institute records	Yes
(ii)	If yes, whether this is a proprietary or a partnership firm?	Proprietary firm : Y S Thakar & Associates
(iii)	Please provide the Firm Registration Number (FRN) of M/s Y.S. Thakar & Associates.	Proprietary firm : Y S Thakar & Associates FRN : 100463
(iv)	Does a firm by the name of **M/s Y.S. Thakkar & Associates** exist in the Institute records?	No
(v)	If your answer to para (iv) above is in negative, then can a member in practice use the seal M/s Y.S. Thakkar & Associates in any of its official documents	No
(vi)	Please provide copies of Form M-3 submitted in respect of M/s Y.S. Thakar & Associates for the FY 2020-21, 2021-22 & 2022-23	As available from Members Online System, M3 form for FY 22-23 attached.

xvii. From the above information furnished by Membership Department it is clear that:-

- A firm by the name of **M/s Y.S. Thakkar & Associates** does not exist in the Institute records
- Also, a CoP holder whose firm name is M/s Y.S. Thakar & Associates cannot use the seal of M/s Y.S. Thakkar & Associates in any of its official documents.

The Membership Department had attached Form M-3 signed by the respondent towards renewal of CoP for the FY 2023-24. It is surprising that the respondent had not mentioned the name of his firm anywhere in the said Form M3.

q) In the meantime, a letter No. G/DD/Com-CA(108)/(SECL)/2/07/2022 dated 27th July 2023 was addressed to the Chief Manager (Finance), South Eastern Coalfields Ltd which is reproduced below:

Quote:

"Dear Sir,

This communication is being made as part of the investigation that Director

(Discipline) is empowered to do under Section 21 of the Cost and Works Accountants Act, 1959 in connection with certain disciplinary proceedings pending against a member of this Institute.

It has been given to understand that in response to an EOI issued by your company - M/s South Eastern Coalfields Ltd (SECL) for empanelment and selection for appointment of Cost Auditor vide NITNo: SECL/BSP/CMC/e-EoI/406 dated 27.06.2020, either M/s Y.S. Thakar & Associates, Cost Accountants, (Firm Registration No. 100463) a proprietary firm of CMA Yashodhar Shashikant Thakar (Membership No. 9688) or M/s Y.S. Thakar & Co.,a Partnership firm (FRN 000318) had submitted its bid.

In this connection may we request your good self to kindly let us know within 10 days from the receipt of this communication, the following:

(1) Whether or not M/S Y S Thakar & Associates or M/s Y.S. Thakar & Co., as the case may be, was awarded the work against Tender NIT No: SECL/BSP/CMC/e-EoI/406 dated 27.06.2020?
(2) The details submitted by M/S Y S Thakar & Associates or M/s Y.S. Thakar & Co. relating to the number of employees in the rolls of his firm.
(3) In case M/s Y.S. Thakar & Co had submitted the bid, the details of partners in the said firm.

We solicit your cooperation in this regard.
Yours faithfully,''

r) South Eastern Coalfields Ltd, by an email dated 4th August 2022, received at or about 10.51 AM stated that:

- M/s Y.S. Thakar & Associates (FRN 10463) had submitted a bid against the EOI floated by SECL vide SECL/BSP/CMC/e-EOI/406 dated 27th June 2020 for empanelment and appointment of cost auditor of SECL.
- Based on valuation criteria and upon approval, M/s Y.S. Thakar & Associates has been appointed as one of the Branch cost auditors of SECL for the year 2020-21 & 2021-22.
- As per the bid details submitted by the firm, the firm is a proprietary firm consisting of the respondent himself as a proprietor which has been verified from the ICMAI website.

SECL, however, chose to remain silent on the number of employees shown by the respondent of his firm.

11. Findings of Disciplinary Directorate

From the investigation carried out and as revealed in para (10) to (13) above, it is evident that:

a) The respondent clearly had misrepresented facts while applying in response to Tender South Eastern Coalfield – SECL had issued e-Expression Notice (NIT No.

SECL/BPS/CMC/eEoI/406/27-06-2020) for empanelment and selection for appointment of cost auditor of SECL for financial year 2020-21 & 2021-22 as none of the 13 members were on the rolls of M/s Y.S. Thakar & Associates as on 1.01.2020. This has been brought out by the documents on records as 12 members have clearly stated that they were not in employment of M/s Y.S. Thakar & Associates as on 1.01.2020. In fact, CMA Murlidhar Jagetiya being a Chartered Accountant in practice, did not hold CoP at the relevant time.

b) Further, the respondent had made no attempt to refute the above mentioned charge of showing 12 members on rolls who are/were not in employment of M/s Y.S. Thakar & Associates at all. He merely states in Para 4 of his written statement of 19th August 2022 that the complainant is vehemently busy in fabricating false evidence and unauthenticated papers''. He has not addressed the fact that the website of the Institute had mentioned the names of these members as employees on his rolls of M/s Y.S. Thakar & Associates.

c) He had also incorrectly affixed a wrong seal of M/s Y.S. Thakkar & Associates in the Letter of Undertaking submitted by him to SECL. This shows the negligence which is not expected from a professional. The logic submitted by the respondent in his written statement that 'as far as the surname "Thakar" which is my correct surname has been somewhere by typographical error appearing as Thakkar'' does not seem to be tenable. The respondent himself admits this as ''unintended mistake''.

d) His letterhead also shows his qualification as 'AICWA' instead of 'ACMA'. The members of the Institute were advised to use descriptive letters "ACMA''/"FCMA'' as suffix instead of "AICWA"/"FICWA". Such a change has been brought about by the Government of India by amendment to the Cost and Works Accountants Act, 2011 by amending Section 5(2) of the Cost & Works Accountants Act, 1959 which was published in the Official gazette of India on 12th January 2012. Thus, by using the words AICWA, the respondent has not adhered to the amended Act and if the same is ''by inadvertence'', it speaks volumes for the careless and slapdash attitude of the respondent.

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CMA Bhawan, 3 Institutional Area,
Lodhi Road, New Delhi-110003
Phone : +91-11-24622156-57-58
Website : www.icmai.in

e) The fact that the complainant is not aware of any person having knowledge of facts of the case does not make the complaint invalid or infructuous Neither it is an attempt by the complainant of "a shot in the air" as claimed by the respondent. In his written statement.

12. It is pertinent to mention here that the Disciplinary Directorate was in receipt of a letter bearing number G/128/10/2023 dated 3rd October 2023 from the good office of the Secretary of the Institute, attaching therewith an extract of the 348th meeting of the Council of the Institute held on 27th August & 28th August 2023 referring the matter to the Disciplinary Directorate for initiating disciplinary proceedings against Shri Yashodhar Thakar, who is the respondent in the instant case and is understood to have received sensitive and vital information from two employees of Baroda Chapter of Cost Accountants without the permission of the then Chairman/Secretary of the Chapter. It is also understood that Shri Yashodhar Thakar, respondent has, in turn, passed the information to someone else so as to raise RTIs, DCs, complaints and/or notices in third person's name with the sole intention of not getting information but to create a wrong image of "mismanagement of ICMAI" and thereby tarnish the image of the Institute. Thus, the respondent has a track record of indulging in unethical and disreputable acts.

13. **Prima facie Opinion**

a) The above-mentioned complaint has been examined in pursuance of Section 21 of the Cost Accountant Act, 1959 as amended in 2006 read with Rule 9 of the Cost and Works Accountants (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007, CMA Yashodhar Thakar (M/9688) respondent, is guilty of contravening the following provisions of the Cost and Works Accountants Act:

i. Clause (3) of Part III of the First Schedule to the CWA Act, 1959 – While inviting professional work from another cost accountant or while responding to tenders or enquiries or while advertising through a write up, or anything as provided for in items (6) and (7) of Part I of this Schedule, gives information knowing it to be false.

Headquarters:
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ii. Clause (2) of Part IV of the First Schedule to the CWA Act, 1959 – in the opinion of the Council he brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

iii. Clause (1) of Part II of the Second Schedule to the CWA Act, 1959 – contravenes any of the provisions of this Act or the regulations made there-under or any guidelines issued by the Council.

iv. Clause (3) of Part II of the Second Schedule to the CWA Act, 1959 – includes in any information, statement, return or form to be submitted to the Institute, Council or any of its Committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing them to be false.

b) In the 82nd meeting of the Committee held on 27th February 2024, the matter came up for discussion before the august Committee. CMA Ashwin G Dalwadi, Presiding Officer of the Disciplinary Committee, as a measure of transparency, pellucidity and good governance left the meeting room based on request made by the respondent to keep him away from the disciplinary proceedings for fair and unbiased trial. In the absence of CMA Ashwin G Dalwadi, Presiding Officer, Disciplinary Committee, Shri Saraswati Prasad, IAS (Retd.), Government Nominee, being the senior most amongst the members nominated by the Central Government u/s 21B of the Cost Accountants Act, 1959, took the chair as the 'Presiding Officer' in accordance with Rule 16(4) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

c) The prima facie opinion formed by the Director (Discipline) in terms of Rule 9(2)(a)(ii) the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 was placed before the Committee which was **agreed** to by the Committee in terms of Rule 9(2)(b) of the Rules. The Committee noted that this was a fit case against the respondent to be proceeded against in the light of the violations committed by the respondent and directed Director (Discipline) to proceed further under Chapter V and ensure compliance of Rule 18(2)/18(3) of the Rules.

14. <u>Proceedings as per Rule 18(3) to 18(5) of The Rule</u>

a) Prima facie opinion dated 27th February 2024 together with the documents relied upon was sent under the cover of letter Nos. G/DD/Com-CA(108)/(M-22646)/PFO/1/03/2024 & G/DD/Com-CA(108)/(M-9688)/PFO/1/03/2024 dated 1st March 2024 were sent both to the complainant and respondent requiring the latter to file the second written statement within 21 days from the date of receipt of the same. The speed post receipt has confirmed that the documents in question have reached them.

b) The respondent had received the prima facie opinion together with the documents relied upon by Director (Discipline) on 5th March 2024, as speed post receipt confirms. On 25th March 2024, by an email received by this Directorate at or about 4.43 PM the respondent sought extension of time of 30 days for submitting the second written statement citing year ending assignments and other year closing activities. The respondent was granted three week's extension to submit the second written statement and the same was communicated to him by an email dated 27th March 2024 at or around 2.38 PM. The written statement, accordingly should reach the Disciplinary Directorate on or before 18th April 2024.

c) On 16th April 2024 at or about 3.22 PM, Shri Rahul Malhotra, believed to be the Counsel for the respondent submitted the second written statement through email on behalf of the respondent. The same is reproduced below in verbatim:

Quote:

BEFORE THE DISCIPLINARY COMMITTEE
THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Complaint No. Com/21-CA(108)/2022

CMA Ashishkumar Sureshchandra Bhavsar …….Complainant

Vs.

CMA Yashodhar Shashikant Thakar ………… Respondent

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BEFORE THE DISCIPLINARY COMMITTEE
THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Complaint No. Com/21-CA(108)/2022

CMA Ashishkumar Sureshchandra Bhavsar .... Complainant

Vs.

CMA Yashodhar Shashikant Thakar ....Respondent

WRITTEN STATEMENT ON BEHALF OF THE RESPONDENT TO THE COMPLAINT OF THE COMPLAINANT AND THE PRIMA FACIE OPINION OF THE DIRECTOR (DISCIPLINE) OF THE INSTITUTE OF COST ACCOUNTANTS OF INDIA.

MOST RESPECTFULLY SHOWETH:

A. At the outset, the contents of the complaint filed by the Complainant and the prima-facie opinion of the Director (Discipline) of the Institute are denied and wrong being misconstrued and misconceived except those that arc specifically admitted hereinafter to be true and correct.

PRELIMINARY OBJECTIONS:

1. The complaint filed by the Complainant and the prima-facie opinion formed in. pursuance thereto misplaced and misconstrued. The same is based. on surmises

and conjectures of the Complainant. The complaint is bad in law as well as on facts. The same is liable to be rejected on this ground itself.

2. The present complaint is liable to be dismissed at the outset being vexatious complaint filed by the Complainant with a view Io harass the Respondent. The Complainant have sought to present facts and issues by wav of' the present complaint which are false, frivolous misconceived illegal and unwarranted in light of the present written statement on behalf of the. Respondent
3. The Complainant has no locus whatsoever to file the present complaint against the Respondent. Further, no case has been made out by the Complainant or the Director (Discipline) against the Respondent for professional misconduct or other misconduct under the Costs and Works Accountants Act, 1959 (the Act) read with Costs and Works Accountants (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 (the Rules).
4. The prima-facie opinion dated 27.02.2024 is without application of mind and in fact goes beyond the complaint filed by the Complainant for reasons best known to the Director (Discipline).
5. It seems the complaint is totally misconceived and false because the Complainant himself is not clear as to under which particular clause he is actually complaining. In his particulars of allegation, he has referred to Clause 2 of Part IV of First Schedule of the Cost and Works Accountants Act 1959 alleging that "the member brings disrepute to the profession or to the Institute as result of his action whether or not related to the professional work." To superficially substantiate his allegation, the Complainant has alleged on Page 4 of the complaint that "CMA Y S Thakar has forged misrepresented the facts." Thus,, the enthusiastic jealous professional brother does not hesitate even to invoke the criminal law without understanding its consequences. By making such casual allegation, he has himself brought disrepute to him as member and also made him liable for criminal and civil defamation by baselessly alleging forgery.
6. The Director (Discipline) in its prima-facie opinion has wrongly alleged that the Respondent is guilty of contravening of the following provisions of the Act.
    i. Clause (3) of Part Ill of the First Schedule to the CWA Act, 1959 - While inviting professional work from another cost accountant or while responding to tenders or enquiries or while advertising through a write up, or anything as provided for in Items (6) and (7) of Par I of this Schedule, gives information knowing it to be false.
    ii. Clause (2) of Part IV of the First Schedule to the CWA Act, 1959- in the opinion of the Council he brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.
    iii. Clause (1) of' Part Il of the Second Schedule to the CWA Act, 1959- contravenes any of the provisions of this Act or the regulations made there-under or any guidelines Issued by the Council.
    iv. Clause (3) of Part II of the Second Schedule to the CWA Act, 1959- includes in any information. statement, return or form to be submitted to the Institute, Council or any of its Committees. Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing them to be false.

7. The Respondent had not given any false information while responding to the tenders of enquiries to come within the purview of being guilty under Clause (3) of Part III of the First Schedule to the CWA Act, 1959. The said fact shall be demonstrated in the preliminary submissions hereunder.
8. Further, the Respondent has not brought any disrepute to the profession or the Institute as a result of any action on his part. whether related or not related to professional work. Neither the Complainant nor the Director (Discipline) has been made out a case against the Respondent as to how the Respondent has caused disrepute to the profession or the Institute by his actions. There are no particulars contained either in the complaint or prima-facie opinion establishing iota of disrepute to profession or Institute. Merely making bald allegations is not sufficient to prove or establish that any disrepute has been caused or suffered by anyone or the Institute. Hence, no case has been made out under Clause (2) of Part IV of the First Schedule to the CWA Act, 1959.
9. The Respondent has not contravened with any of the provisions of the Act or regulations made thereunder or any guidelines issued by the Council. The complaint or the prima-facie opinion fails to make out any case under Clause (1) of Part Il of the Second Schedule to the CWA Act, 1959.
10. The Respondent has not included any information, statement, return or form to be submitted to the Institute, Council or any of its committees, Director (Discipline), Board of Discipline, Disciplinary Committee. Quality Review Board or the Appellate Authority any particulars which were false or known to be false. The complaint or the prima-facie opinion fails to make out any case under Clause (3) of Part Il of the Second Schedule to the CWA Act, 1959.
11. The above assertions/submissions on behalf of the Respondent shall be further substantiated with facts in rebuttal to the complaint of the Complainant pursuant to which the prima-facie opinion was found.
12. From the contents of the complaint and the manner in which the prima-facie opinion has been formed and the proceedings have proceeded against the Respondent, it is evident that the present complaint is motivated and has been filed at behest of a person behind the curtains having personal vested interest in causing harm and injury to the Respondent.
13. The primary allegations of the complainant are follows –
    (a) Alleged wrong information provided in the tender floated by South Eastern Coalfield (SECL).
    (b) Mention of AICWA instead of ACMA on the letter head of the Respondent.
    (c) Affixation of the rubber stamp which reads 'Y.S. Thakkar and Associates' instead of the actual name 'Y.S. Thakar and Associates.

PRELIMINARY SUBMISSIONS:

14. It is a matter of fact that the Respondent's firm had participated in the tender floated by M/s. South Eastern Coalfield Limited (SECL) videe-Expression Notice (NIT No. SECL/BPS/CMA/eE01/406/27-06-2020) for empanelment and selection for appointment of Cost Auditor of SECL for Financial Year 2020-21 & 2021-22. Copy of the e-Expression Notice (NIT No. SECL/BPS/CMA/eEo1/406/27-06-2020) issued by SECL is annexed herewith and marked as **Annexure- R1.**

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15. The firm of the Respondent was appointed as the Branch Cost Auditor SECL after following all legal formalities as per the terms and conditions of the tender documents and completed all the procedures and formalities those were laid down in the tender documents.
16. The firm of the Respondent had successfully discharged its obligations complying with the highest and strictest standards for which neither the client nor any other person except the complainant has the problem.
17. The firm had competed Cost Audit for the financial year 2020-21 and 2021-2022 to the utmost satisfaction of the appointing authority and that too well within statutory time limit as laid down under Section 148 of the Companies Act, 2013.
18. The tender as floated by the SECL was prescribed a method for selection/appointment which was as follows-
    a. The tender provided for selection criteria which accounted for 100 marks in total. The criteria concerned was as follows-

Sl. No.	Selection Criteria	Basis of Marks	Maximum Marks
1.	Year of establishment of the Firm, since the date of registration.	(a) 2 marks per year for first 4 years from date of registration. (b) 1 mark per year for consecutive years.	10
2.	Number & Experience of partners in the firm. (The partner should be a Fellow/Associate Member of Institute of Cost Accountants of India)	(a) 5 marks per Partner in full time practice for more than 5 years. (b) 3 marks per Partner in full time practice for less than 5 years.	25
3.	Number of Fully qualified and Semi qualified assistants (Cost/chartered Accountant) in the Firm.	(a) 2 marks of each fully qualified assistant. (b) I mark for each fully qualified assistant.	10
4.	Experience of the firm in Conducting Statutory Cost Audit.	(a) Maximum 20 marks – 4 marks per year per entity engaged in Mining and Exploration. (b) Maximum 10 marks – 3 marks per year per entity (other than (a) above).	30

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5.	Aggregate Revenue as per GST return/Annual Audited Accounts of the Firm during the FYs 2016-17, 2017-18 and 2018-19 (to consider value on which GST in cash paid and not by input credit)	(a) above Rs. 150 lakhs – 20 marks (b) Rs. 150 lakhs to Rs. 100 lakhs- 12 marks (c) Rs. 100 lakhs to 50 lakhs – 10 marks (d) Rs. 50 lakhs to 20 lakhs - 5 marks (e) Below Rs. 20 lakhs – 2 marks	
6.	Location of the Audit Firm.	If regd. Office/Branch of the Firm is located in any of the states where SECL is operating i.e. Chhattisgarh, Madhya Pradesh and West Bengal.	6
		Total	100

b. After considering the above selection criteria, the shortlisted firms securing minimum qualifying marks of 60 was to be evaluated in descending order of marks received. The said shortlisted firms were to be called for making presentation before the audit committee of SECL out of which 4 numbers of cost auditors were to be appointed by SECL. The said process carried 50 marks.

c. The final selection was based on the professional judgement of the appointing authority and marks obtained by the firms out of total 150 marks (100 marks from primary criteria and 50 marks from final criteria).

19. Upon participation in the tender process, the firm of the Respondent secured more than 60 marks in the primary criteria and was thus qualified for the presentation stage. The same was intimated to the Respondent by SECL vide email dated 10.09.2020. It is pertinent to mention that the marks secured by the Respondents firms was in excess of 70. Copy of the email dated 10.09.2020 of SECL is annexed herewith and marked as Annexure-R2.

20. Thereafter, vide email dated 11.09.2020, the Respondent's firm was invited for the committee meeting to make presentation on 17.09.2020. Pursuant to the said email of SECL, the Respondent's firm submitted the presentation which was to be presented which was duly received by SECL along with the covering letter. The presentation at Page No,3 provided the list of the team members of the Respondent's firm. Copy of the email dated 11.09.2020 of SECL is annexed herewith and marked as Annexure- R3.

21. It is pertinent to note that the tender obligated the Respondent's firm to provide number of fully qualified and semi-qualified assistants (Cost/Chartered Accountants) in the firm. The tender never had a condition that the assistants should be on the payrolls of the Respondent's firm.

22. The Attachment – 2 to the complaint is the list of cost accountants who were working/associated with the Respondent's firm as on 01.01.2020. The said list

was submitted along with other documents at the time of participation in the tender of SECL in order to fulfil the criteria at Sl. No. 3 of the primary criteria. The word 'roll' mentioned on the said page does not connote that the said persons were under employment of the Respondent's firm. The said word has been misconstrued to allege that the said person through not in employment of the Respondent's firm have been wrongly declared to be in employment of the Respondent's firm.

23. It is a matter of fact that the Cost Accountants/Chartered Accountants work on retainership basis or assignment to assignment basis with another Cost Accountant/Chartered Accountant or his firm. The same is permissible under rules and such a Cost Accountant/Chartered Accountant can retain its certificate of practice while being associated with any firm as they are not in employment of such a firm. The same was the case with the Respondent's firm and the persons associated with it.
24. It is submitted that neither the said persons were in employment in the Respondent's firm nor the criteria in the tender required employment nor the Respondents firm ever construed or represented that the said persons are in its employment. Therefore, the allegation of the Complainant is farfetched and stretched beyond the limit. Such an allegation has been made and a mountain out of a mole has been sought to be made only with mala-fide intention and ulterior motives.
25. No harm or injury has been caused to either SECL or any other person due to the declaration made by the Respondent's firm i.e. Attachment-2 to the complaint during the tender process of SECL.
26. Further, the Respondent's firm had given the particulars of its team at Page No. 3 of the presentation wherein it was nowhere mentioned that any of the persons was on the rolls of the Respondent's firm. The ultimate appointment of the Respondent's firm was made on the basis of the presentation submitted before the concerned authority. The Attachment-2 had no consequence whatsoever as the Respondent's firm had secured 60 marks even without considering the marks against SL. No. 3 in the primary criteria.
27. SECL was in receipt of the hard copy of the presentation sent by the Respondent's firm vide DTDC courier dated 17th September, 2020, docket No. A46650340 in which the list of team of the Respondent's firm was presented for selection of firm based on terms and conditions of the tender. Copy of the presentation of the Respondent's firm submitted with SECL and the proof of dispatch is annexed herewith and marked as **Annexure-R4.**
28. It is also pertinent to mention that the timing of e-Expression notice (NIT No. SECL/BPS/ CMA/eEoI/406/27-06-2020) coincided with the COVID period and that too when the pandemic was at its peak and most of the offices were totally closed or were partially functional as per the Government of India's directives/orders. Even the offices of SECL which floated tender under reference was closed or were partly functional or may be operated from some places other than its regular work place. For the record and reference, an email dated 28th September, 2020 of SECL, Bilaspur, the tendering authority, is being placed on record wherein it was stated that the "the appointment letters will be issued on

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29.09.2020 as its office is closed due to complete lockdown at Bilaspur till 28.09.2020".

29. Under the said circumstances, it will be appreciated that the same conditions were prevailing in almost entire India and Respondent's office at Baroda was not an exception to it. The Respondent's firm participated in the tender procedure under exceptional and extraordinary circumstances and with limited resources including availability of laptops, printers, scanners and other facilities including uploading of required documents on e-tender portal of the SECL. The Respondent's firm was even forced to take the help of outside agencies, manpower, resources etc., to complete the –Tender procedure in the given time limit. The office of the Respondent's firm was functional with limited manpower and had to, many a times, complete the work with less manpower and scarce resources. Therefore, the mention of the word 'rolls' in Attachment- 2 was unintentional and did not portray or construe the meaning which the complainant has sought to construe.
30. Therefore, in view of the above, it cannot be alleged or stated that the Respondent's firm had provided any false information while responding to the tender of SECL.
31. As far as the allegation in complaint regarding the Respondent: being described as AICWA and not ACMA, it is submitted that the press release dated 19.01.2012 inter-alia stated that the ICWAI Amendment Act, 2011 shall unable the members of the Institute to use the designation ACMA and FCMA denoting associate and fellow membership of the Institute respectively. This will enable the members working in India and abroad being recognized by a common designation by which similar members are known throughout the globe. The said press release did not prohibit or restrict any member to use the earlier used designation i.e. AICWA. Further, the said press release cannot be stated to be an Act, regulations or guidelines issued by the Council of the Institute to attract the violation under Clause I of Part II or Second Schedule to the Act. Copy of the press release dated 19.01.2012 is annexed herewith and marked as Annexure-R5.
32. It is further submitted that the change had been introduced in 2012 and prior thereto all the members were known as "AICWA". The change from "AICWA" to "ACMA" has been already incorporated and implemented on the letterheads of the Respondent. However, in the present case, inadvertently, an old letterhead was used which carried the designation to be AICWA. This must have happened because of the lockdown restrictions and scares resources. However, the declaration of designation to be AICWA instead of ACMA does not attract any of the alleged offences which have been charged against the Respondent in the prima-facie opinion. The current letterhead of the Respondent is annexed herewith and marked as **Annexure- R6.**
33. Now adverting to the last allegation/complaint of the Complainant i.e. the rubber stamp affixed on the tender document read as 'Thakkar' instead of 'Thakar' in 'Y.S. Thakar &Associates', it is submitted that there has been no misrepresentation or false information which have been furnished by the Respondent's firm or the Respondent to the tendering authority.
34. Institute vide its letter dated 26.11.2012 had given authority that "you have been permitted to practice in the name and style of Y.S. Thakar and Associates." All the

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documents which were submitted by the Respondent's firm clearly stated the name of the participant to be 'Y.S. Thakar & Associates'.

35. It is submitted that 'Thakar' was misspelt as 'Thakkar' only in the rubber stamp which is evidently an inadvertent mistake at the end of the person who had made the said rubber stamp. The Respondent stands to gain nothing or has gained nothing by using the rubber stamp which read 'Y.S. Thakkar & Associates' instead of 'Y.S. Thakar & Associates'.
36. It is also pertinent to mention that the said inadvertent mistake on part of the Respondent does not attract any of the offences which have been charged against the Respondent in the prima-facie opinion. Further, there is no case or allegation of the tendering authority or any other person that the Respondent's firm or the Respondent has gained out of the inadvertent misspelling.
37. In view of the foregoing facts and circumstances, the complaint of the Complainant is liable to be dismissed/rejected being misconceived and misconstrued. The prima-facie opinion is liable to be disregarded. It is prayed that the complaint be dismissed with exemplary costs being frivolous and unjustified.'

Unquote

d) Thus, the respondent has challenged the prima facie opinion formed by Director (Discipline) and stated that it is without application of mind and in fact goes beyond the complaint filed by the Complainant for reasons best known to the Director (Discipline).

e) What the respondent had failed to appreciate that he was utterly negligent in the discharge of his professional duties which is reflected in the seal affixed on his letter head in as much as the respondent had affixed a round shaped rubber Stamp which reads "Y.S. Thakkar & Associates" instead of ''Y.S. Thakar & Associates.''

f) Regarding the use of AICWA instead of ACMA, the respondent's contention that ''in the present case, inadvertently, an old letterhead was used which carried the designation to be AICWA'' does not have legs to stand on as such a change has been brought about by the Government of India by amendment to the Cost Accountants Act, 2011 by amending Section 5(2) of the Cost Accountants Act, 1959 which was published in the Official gazette of India on 12th January 2012. Thus, by using the words AICWA, the respondent has not adhered to the amended Act and if the same is ''by inadvertence'', it speaks volumes for the careless and slapdash attitude of the respondent. Since, the respondent has not adhered to the provisions of Section 5(2) of the CWA Act, clause (1) of Part II of Second Schedule is attracted which states that a cost accountant in practice shall be guilty of misconduct if he contravenes any of the provisions of this Act or the regulations made there-under or any guidelines Issued by the Council.''

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g) In the 84th meeting of the Committee held on 24th April 2024; The Committee discussed and deliberated at length on the response submitted by the respondent and on the findings made by Director (Discipline). The members directed Director (Discipline) to obtain a copy of the actual tender document that the respondent had submitted to South Eastern Coalfields Ltd in response to e-Expression Notice (NIT No. SECL/BPS/CMC/eEoI/406/27-06-2020) for empanelment and selection for appointment of cost auditor of SECL for the financial years 2020-21 & 2021-22.

h) That, Communication No. /DD/Com-CA (108)/(M-22646)/PFO/2/04/2024 dated 25th April 2024 followed by an email dated 14th May 2024 was sent to the complainant, calling upon him to provide a copy of the actual tender document that the respondent had submitted to South Eastern Coalfields Ltd in response to e-Expression Notice (NIT No. SECL/BPS/CMC/eEoI/406/27-06-2020) for empanelment and selection for appointment of cost auditor of SECL for the financial years 2020-21 & 2021-22 in the light of the allegation that M/s Y.S. Thakar &Associates, a proprietary firm of cost accountants, has reported 13 Cost Accountants on the rolls of the firm as on 01.01.2020 and has shown date of joining of respective cost accountants as a part of tender document.

i) The complainant, by an email dated 15th May 2024 received at or around 7.11 PM submitted a copy of the Tender Document which SECL has floated together with Expression of Interest (EoI) dated 27.06.2020.

j) In the 85th Adjourned meeting of the Committee held on 7th June 2024, the matter came up for discussion wherein the Ld members perused the entire complaint and the responses received from the respondent as well as the comments of Director (Discipline). On a careful perusal of the complaint, the written statements dated 19th August 2022 and 16th April 2024 of the respondent and various documents and material on record, the committee observe that the charges against the respondent are on the following counts:

   (i) The respondent has misrepresented facts while applying in response to Tender of SECL (NIT No. SECL/BPS/CMC/eEoI/406/27-06-2020) for empanelment and selection for appointment of cost auditor of SECL for financial year 2020-21 & 2021-22 as none of the 13 members were "on the rolls" of M/s Y.S. Thakar &Associates, a proprietary firm, as on 1.01.2020. This has been brought out by the documents on records as 12 members have stated to Disciplinary Directorate that

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they were not in employment of M/s Y.S. Thakar & Associates as on 1.01.2020. In fact, CMA Murlidhar Jagetiya being a Chartered Accountant in practice did not hold Certificate of Practice of the Institute of Cost Accountants of India at the relevant time.

(ii) The respondent had also incorrectly affixed a wrong seal of **M/s Y.S. Thakkar & Associates** (instead of Y.S. Thakar & Associates) in the Letter of Undertaking submitted by him to SECL. A professional who is practicing in the name and style of M/s Y.S. Thakar & Associates cannot use the seal of M/s Y.S. Thakkar & Associates in any of its official documents. This shows the negligence which is not expected from a professional. The logic submitted by the respondent in his written statement that as far as the surname "Thakar" which is his correct surname has been somewhere by typographical error appearing as Thakkar'' does not seem to be tenable. The respondent himself admits this as ''unintended mistake''.

(iii) His letterhead also shows his qualification as 'AICWA' instead of 'ACMA' which is a violation as the name of the Institute was changed from the Institute of Cost and Works Accountants of India to the Institute of Cost Accountants of India as early as in January 2012 and the members of the Institute were advised to use descriptive letters "ACMA''/"FCMA'' as suffix instead of "AICWA"/"FICWA". Such a change was brought about by the Government of India by amendment to the Cost and Works Accountants Act, 2011 by amending Section 5(2) of the Cost & Works Accountants Act, 1959 which was published in the Official gazette of India on 12th January 2012. Thus, by using the words AICWA, the respondent has not adhered to the amended Act and if the same is ''by inadvertence'', it speaks volumes for the careless attitude of the respondent. The contention of the respondent was that ''inadvertently, an old letterhead was used which carried the designation to be AICWA. This must have happened because of the lockdown restrictions and scarce resources''.

It is decided to call both the complainant and the respondent in the next meeting of the Committee for making oral submissions, if any, in terms of sub-rule (6) Rule 18 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other

Misconduct and Conduct of Cases) Rules, 2007.

15. Proceedings as per Rule 18(6) of The Rule

(i) That, communication nos. G/DD/Com-CA (108)/(M-22646)/PFO/2/07/2024 & G/DD/Com-CA(108)/(M-9688)/PFO/2/07/2024 both dated 11.07.2024 were sent to the complainant as well as the respondent requiring their presence under Rule 18(6) of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 for making oral submissions. The complainant has been called between 11.45 AM to 12.00 Noon and the respondent has been called between 12.00 Noon to 12.15 PM for oral submissions.

(ii) The respondent, by an email dated 12th July 2024 received at or about 7.03 PM stated as follows:

> Respected Sir/s,
> This refers to the trailing mail for Oral Submissions u/r 18(6) of the Rules in the matter of Complaint No. Com/21-CA(108)/2022 – CMA Ashishkumar Sureshchandra Bhavsar (M/22646) [Complainant] Vs. CMA Yashodhar Shashikant Thakar (M/9688) [Respondent] sent to me by your office on 11th July, 2024 at around 17.30hours.
> In the mail, it is mentioned that "As per Explanation to Rule 18(6), for the purpose of this rule, the appearance includes, unless otherwise directed, appearance by an advocate or through any authorized representative, who may be a Chartered Accountant, Cost Accountant or Company Secretary"
> Since presently I am out of India, I am availing the services of an advocate for the purpose of representing my case with the Director Discipline/Disciplinary Committee of the Institute of Cost Accountants of India. I communicated with him and my advocate said that he is not available on that date and time since he is preoccupied with other legal cases/work. I, therefore, request you and the Disciplinary Committee to adjourn the hearing which is scheduled on 19th July, 2024 and postpone at least for ten days, may be scheduled in the month of August, 2024.
>
> Thanking you in anticipation of granting the adjournment as requested by me as per the Rules of the Institute and in favour of the principles of natural justice.
>
> With warm regards.
> CMA Yashodhar Thakar
> M-9688''

(iii) The Committee noted that neither the complainant nor the respondent was present for the hearing. Accordingly, the Committee decided to provide another opportunity both to the complainant and the respondent in the next meeting of the Committee for making oral submissions, if any, under Rule 18(6) of the Rules.

(iv) In accordance with such directions of the Committee, both complainants as well as respondent were called for making oral submissions, if any, under Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 Rules.

(v) Complainant appeared through virtual mode at the scheduled date and time and made the inter alia the following submissions:

I. South Eastern Coalfield – SECL had issued e-Expression Notice (NIT No. SECL/BPS/CMC/eEoI/406/27-06-2020) for empanelment and selection for appointment of cost auditor of SECL for financial year 2020-21 & 2021-22.

II. The respondent, a proprietor of M/s. Y.S. Thakar & Associates (FRN 100463) had applied for the said tender ''with several factually incorrect information to SECL to get the cost audit.'' Such details are:-

- On firm's letterheads CMA Y.S. Thakar has mentioned his degree as AICWA instead of ACMA.
- On said letterhead of M/s. Y.S. Thakar& Associates, the respondent had applied a rubber Stamp which reads "Y.S. Thakkar & Associates". He has used words "Thakkar" in place of "Thakar".

III. Both these acts, are of sheer negligence by a professional cost Accountant which invites disrepute the Institute under clause (2) of Part IV of first schedule of the Act.

IV. M/s. Y.S. Thaker & Associates, a sole proprietor firm of cost accountant has reported 13 Cost Accountants on the rolls of the firm as on 01.01.2020 and has shown date of joining of respective cost accountants as a part of tender document. On verification of the said details, it was found that none of the 13 members whose name have been shown in the rolls were in his firm as on 01.01.2020

The Committee took on record the submissions made by the Complainant.

(vi) On behalf of the respondent, Shri Rahul S Malhotra, Advocate, appeared through virtual mode. Committee read out the charges as required under Rule 18(7) of the Rules together with the summary of the prima facie opinion. The respondent did not plead guilty and made *inter alia* the following submissions:

I. The complaint filed by the Complainant and the prima-facie opinion formed in. pursuance thereto misplaced and misconstrued. The same is based. on surmises and conjectures of the Complainant. The complaint is bad in law as well as on facts. The same is liable to be rejected on this ground itself.

II. The present complaint is liable to be dismissed at the outset being vexatious complaint filed by the Complainant with a view lo harass the Respondent.

III. The Complainant has no locus whatsoever to file the present complaint against the Respondent

IV. The Respondent had not given any false information while responding to the tenders of enquiries to come within the purview of being guilty under Clause (3) of Part III of the First Schedule to the CWA Act, 1959

V. Respondent has not brought any disrepute to the profession or the Institute as a result of any action on his part. whether related or not related to professional work

VI. The Respondent has not contravened with any of the provisions of the Act or regulations made thereunder or any guidelines issued by the Council

VII. The firm of the Respondent had successfully discharged its obligations complying with the highest and strictest standards for which neither the client nor any other person except the complainant has the problem. The firm had competed Cost Audit for the financial year 2020-21 and 2021-2022 to the utmost satisfaction of the appointing authority and that too well within statutory time limit as laid down under Section 148 of the Companies Act, 2013.

VIII. It is pertinent to note that the tender obligated the Respondent's firm to provide number of fully qualified and semi-qualified assistants (Cost/Chartered Accountants) in the firm. The tender never had a condition that the assistants should be on the payrolls of the Respondent's firm.

IX. No harm or injury has been caused to either SECL or any other person due to the declaration made by the Respondent's firm i.e. to the complaint during the tender process of SECL.

The Committee took note of the oral submissions made by the respondent.

(vii) It is decided to issue notice to both the complainant and respondent for examination of witness and production of documents in terms of Rule 18(9) of the of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

16. <u>Proceedings as per Rule 18(9) & 18(10) as well as 18(13) and 18(14) of The Rule, 2007</u>

a) Proceeding of 88th Meeting of Disciplinary committee held on 27th September, 2024

(i) That, communication dated 17th September, 2024 were sent through mail to both the parties requiring their presence under Rule 18 (9) of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules 2007 for examination of witness and production of documents.

(ii) Due to delay in the proceedings of the DC, Complainant could not attend the meeting at the rescheduled time. However, he was present through VC at the scheduled time but didn't allow attending as some other matter was going on that time.

(iii) The respondent appeared in person, accompanied by his Adv. Rahul S Malhotra, but didn't submit any evidence or witness due to non-submission by the complainant.

(iv) It is decided to provide one more opportunity and issue notice to both the complainant and respondent for examination of witness and production of documents in terms of Rule 18(9) of the of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

b) Proceeding of 89th Meeting of Disciplinary committee held on 24th October, 2024

(i) That, communication were sent via mail to the complainant as well as to the respondent for examination of witness and production of documents under Rule 18(9) &18 (10) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 Rules.

(ii) Complainant appeared through VC at scheduled time and reiterated his submissions. However, he didn't produce any additional evidence or witness in the matter. He said that he has already submitted all sufficient evidences to prove the case.

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(iii) The respondent vide email served on 19th October, 2024 requesting Disciplinary Committee to postpone the hearing due to non-availability of his advocate and Diwali vacations.

(iv) The Committee took note of the same and decided to provide one more opportunity to the respondent to produce his documents and examination of witness in terms of Rule 18(9) & 18 (10) of the of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

c) Proceeding of 90th Meeting of Disciplinary committee held on 19thNovember, 2024

(i) That Communication was sent via mail to the respondent for examination of witness and production of documents under Rule 18(9) &18 (10) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 Rules.

(ii) The respondent appeared in person, accompanied by his Adv. Rahul S Malhotra, and submitted an application on behalf of the respondent under rule 18 (13) & 18(14) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 to produce evidence and examination of witness.

(iii) The Committee took note of the same and decided to issue notice to the respondent for production of his evidence and examination of witness in terms of Rule 18(13) & 18 (14) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

d) Proceeding of 91st Meeting of Disciplinary committee held on 28th January, 2025

(i) That, Notice dated 14th January, 2025 was sent via mail to the respondent for production of his evidence and examination of witness in terms of Rule 18(13) & 18 (14) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

(ii) On behalf of the respondent, Adv. Rahul S Malhotra appeared in person and respondent appeared through VC.

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(iii) Shri Shivam Dave appeared before the committee as the witness of the Respondent.Shri Shivam Dave presented an affidavit duly verified by the Notary. He mentioned that he was employed with firm owned by CMA Yashodhar Shashikant Thakar having joined as trainee from April 2013 to December 2015 and was in employment from January 2017 to November 2022. He was associated/ working with the firm since April, 2013 till November, 2022.

(iv) Adv. Rahul Malhotra requested the Hon'ble Committee to allow him to cross examine the Complainant in the matter.

(v) Committee took note of the same and directed Director (Discipline) to call complainant in the forthcoming meeting for the purpose of his cross examination by the respondent in the matter.

e) Proceeding of 92nd Meeting of Disciplinary committee held on 25th February, 2025

Committee discussed the matter and reconfirmed its earlier decisions and decided to call complainant in the forthcoming meeting for the purpose of his cross examination by the respondent in the matter.

f) Proceeding of 93rd Meeting of Disciplinary committee held on 19th March, 2025

(i) That, communication dated 12th March, 2025 were sent via mail to both the complainant and respondent for the purpose of cross examination of complainant by the respondent in terms of Rule 18 (14) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. However, Respondent vide his mail dated 12th March, 2025 requested to postpone the hearing as his advocate is not available on the scheduled date.

(ii) As per the explanation clause of Rule 18 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the unavailability of the complainant, advocate, or authorized representative shall not be considered a valid ground for adjournment. However, for the sake of natural justice, the Disciplinary Committee decided to provide final opportunity to the respondent for the purpose of cross examination of complainant by respondent before the committee.

g) Proceeding of 94th Meeting of Disciplinary committee held on 28th April , 2025

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(i) That communication dated 17th April, 2025 were sent via mail to both the complainant and respondent for the purpose of cross examination of complainant by the respondent in terms of Rule 18 (14) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

(ii) The complainants vide his mail dated 26thApril, 2025 at 07:29 PM requested to adjourn the hearing due to some pre commitment and professional work.

(iii) As per the explanation clause of Rule 18 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the unavailability of the complainant, advocate, or authorized representative shall not be considered a valid ground for adjournment.

(iv) However, for the sake of natural justice, the Disciplinary Committee decided to provide final opportunity to the respondent for the purpose of cross examination of complainant by respondent before the committee

h) Proceeding of 95th Meeting of Disciplinary committee held on 16th June , 2025

(i) That the matter is listed for cross examination of witness/complainant under Rule 18(14) of The Rule, 2007. Notice was issued to both the parties vide communication dated 10th June 2025 to appear both Hon'ble committee on 16th June, 2025.

(ii) The complainant vide an email dated 16th June 2025 at 2:35 PM requesting an adjournment on account of health issues.

(iii) Ld Advocate for the Respondent strongly objected to the adjournment request, contending that the Complainant has consistently defaulted in appearing before the Committee and has repeatedly sought adjournments. Ld Advocate prayed for dismissal of the matter for want of prosecution. However, from the records, it was noted that the Complainant had appeared before the 89th Disciplinary Committee Meeting held on 24th October 2024. The Committee perused a brief summary of proceedings, which reflects the following adjournments:

Date of hearing	Action
19th March, 2025	Respondent seeks Adjournment
28th April , 2025	Complainant seeks Adjournment

10th June , 2025	Complainant seeks Adjournment

(iv) In the interest of natural justice, the Committee decided to provide final opportunity to the Respondent for the purpose of cross-examining the Complainant/Witness before the Committee. It was further directed that no further requests for adjournment shall be entertained and, in the event of non-appearance by the Complainant, the matter shall be proceeded ex-parte and decided based on the material available on record.

i) **Proceeding of 96th Meeting of Disciplinary committee held on 16th July , 2025**

(i) That, Notice dated 9th July, 2025 were served to both complainant and respondent for the purpose of cross examination of complainant/witness by the respondent in terms of Rule 18 (14) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. Said Notices expressly recorded that no further requests for adjournment would be entertained. The matter was accordingly listed on the present date for cross-examination under Rule 18(14) of the Rules.

(ii) On the scheduled date of hearing, both the Complainant and the Respondent entered appearance through Video Conference. However, Shri Rahul Malhotra, Advocate for the Respondent, appeared in person before the Hon'ble Committee along with his Assistant.

(iii)Ld Advocate representing the Respondent conducted the cross-examination of the Complainant/Witness, putting forth nineteen (19) questions. The questions and answers were recorded in typed form with the consent of both parties, in the presence of the Hon'ble Disciplinary Committee. The same is reproduced hereunder:

Cross Examination in the matter of Complaint No. Com/21 – CA (108)/ 2022 - of Ashish Kumar Sureshchandra Bhavsar (M 22646) Complainant vs CMA YashodharShashikantThakar (M/9688) Respondent		
S.no	**Query of Respondent**	**Reply of Witness**
1.	Is Ashish Bhavsar& Associates	It is a Partnership firm.

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	a proprietorship firm or a partnership firm?	
2.	Have you filed this Complaint personally or on behalf of a firm?	I have written everything in my complaint.
3.	Did you participate in the tender in question?	My firm had participated.
4.	Did you personally participate in the tender?	Our firm had participated in the tender.
5.	Were you involved in the tendering process on behalf of your firm?	I was involved on behalf of my partnership firm.
6.	Who had signed the tender document on behalf of your firm before submitting the same?	Myself.
7.	Have you been authorized by your firm to use the tender documents to file the present complaint?	Yes
8.	Have you placed the authority letter on record along with your complaint or any other documents?	I need to check the complaint.
9.	How many firms had participated in the tender process?	I do not have that data.
10.	Is it correct that as a tenderer your firm had the details of all participants in the tender	When we have applied and the date is closed. The list is available on the website.

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	process?	
11.	Is it correct that as part of tender a presentation was required to be given by the participating tenderers before the final selection of the successful tenderer?	Presentation is based on the shortlisted firm. Every firm that applied was not given chance to give the presentation. The short listed firms had to give the presentation.
12.	Is it correct that Y S Thakar and associates was the shortlisted firm to give the presentation?	We know the tender procedure and we had applied. We do not know whether they were called or not.
13.	Was your firm shortlisted for presentation?	No, it is not selected.
14.	Is it correct that the list of associates / person was substituted/ changed by the respondent at the time of presentation which was distinct from the list provided in the tender document?	Disallowed by the Committee. The complainant cannot have access to this information.
	a) Ld Advocate of the Respondent originally posed query number 14 in the form of a suggestion to the witness, viz: **"I suggest that the list of Associates was substituted or changed by the Respondent at the time of presentation, which was distinct from the list provided in the tender document."** **b)** At this stage, the Hon'ble Committee Members intervened and enquired whether the above was framed as a question or a suggestion. Ld Advocate replied that it is a suggestion. The Hon'ble Committee Members accordingly advised the Ld Advocate that cross-examination must be limited to questions and not suggestions, and that any defence	

	may be advanced at the stage of arguments. **c)** After being so advised, the Learned Advocate modified his statement into the form of a question: *"Is it correct that the list of Associates/persons was substituted or changed by the Respondent at the time of presentation, which was distinct from the list provided in the tender document?"* **d)** The Hon'ble Committee Members again intervened, pointing out that the complainant/witness could not reasonably be expected to have knowledge of the Respondent's internal acts, and advised to Ld Advocate to confine himself to relevant questions to the case. The Committee accordingly disallowed this query.	
15.	Is it correct that multiple complaints have been filed in respect of the same tender?	Witness replied that this is not a relevant question.
	a) With respect to Question No. 15, the Hon'ble Committee Members pointed out that the witness could not reasonably be expected to know whether multiple complaints had been filed in respect of the same tender, and questioned the relevance of such an enquiry. At this stage, the Ld Advocate misbehaved with the Hon'ble Committee Members, alleging bias and asserting that the Nominee was "**putting answers into the mouth of the witness**." b) In response, Hon'ble Committee Members intervened and advised the Ld Advocate to maintain courtesy and decorum before the Disciplinary Committee. c) The Hon'ble Committee Members again advised to Ld Advocate to restrict his questions to matters relevant to the issues before the Committee and expressed displeasure at his repeated misconduct. **d)** The Presiding Officer thereafter disallowed the said question on the ground of irrelevance and directed the Ld Advocate to confine himself to relevant matters. At this stage, the Ld Advocate again misbehaved	

	with the Presiding Officer and other members and made the following derogatory remark impugning the integrity of the Committee: **"Kisi ko bachane ke liye aap kuch bhi kar rahe hain" [Translation: "You are doing anything just to protect someone."]** **e)** This was strongly objected to by the Hon'ble Member, who observed that the said remarks were mere conjectures of the Advocate	
16.	Have you filed complaint against any other person/ tenderer in respect of the tender in question?	No.
17.	Is it correct that Diwanjee and Company had also participated the tender in question?	I had already said I do not remember the name of all the participants.
18.	Did you examine the tender documents of any other tenderer like you did of the respondent?	What is the relevance of this question? I have seen the document of respondent because it was selected.
19.	Where was it stated in the tender document of the respondent that the concerned persons were in employment of the respondent?	It is written in the tender document submitted by the respondent.
Before the Hon'ble Disciplinary Committee.		

(iv) Hon'ble Disciplinary Committee records its displeasure at the discourtesy and disparaging remarks made by the Learned Advocate of the Respondent during the proceedings

(v) Ld Advocate of the Respondent requested an opportunity to cross-examine the Director (Discipline) in the present matter. The Hon'ble Committee directed that such a request be made by way of a formal application under Rule 18(14) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other

Misconduct and Conduct of Cases) Rules, 2007, which shall be considered by the Committee in accordance with law. However, no formal application in this regard has been received to date.

17. Notice and compliance under Rule 18(16) of the Rule, 2007

a) Proceeding of 97th Meeting of Disciplinary committee held on 08th September, 2026

(i) That, Communication vide email dated 19th August, 2025 was forwarded to both complainant and Respondent in terms of Rule 18(16) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 to submit concluding arguments, if any, through written submission within seven (07) days of service of this communication.

(ii) Subsequently, vide Notice dated 1st September 2025, both the parties were informed that their matter has been listed for concluding arguments under Rule 18(16) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, on 8th September 2025.

(iii) The respondent, vide email dated 1st September 2025, requested adjournment on the ground of his advocate's unavailability and further requested that the matter be taken up in the second half of the day, preferably after 3:00 PM. The complainant vide mail dated 7th September, 2025 sought adjournment citing on-going cost audit work and other prior commitments.

(iv) Subsequently, vide email dated 3rd September 2025; the respondent submitted his concluding written submissions. The complainant, however, has not submitted any written concluding argument. For the sake of convenience, the relevant portion of written concluding argument of Respondent is reproduced herebelow

FINAL SUBMISSION

Referring to PRIMA facie opinion formed by Director Discipline in mentioned case number Complaint No. Com/21-CA(108)/2022, point-wise final submission below:

Findings Point no 14 of Prima Facie Opinion

(1) On a careful perusal of the complainant dated 15th June 2022 of the complainant, the undated

... revealed in para (10) to (12) above, it is evident that:

i. The respondent clearly had misrepresented facts while applying in response to Tender South Eastern Coalfield - SECL had issued e-Expression Notice (NIT No. SECL/BPS/CMC/eEoI/406/27-06-2020) for empanelment and selection for appointment of cost auditor of SECL for financial year 2020-21 & 2021-22 as none of the 13 members were on the rolls of M/s Y.S. Thakar & Associates as on 1.01.2020. This has been brought out by the documents on records as 12 members have clearly stated that they were not in employment of M/s Y.S. Thakar & Associates as on 1.01.2020. In fact, CMA Murlidhar Jagetiya being a Chartered Accountant in practice, did not hold CoP at the relevant time.

ii. Further, the respondent had made no attempt to refute the above mentioned charge of showing 12 members on rolls who are/were not in employment of M/s Y.S. Thakar & Associates at all. He merely states in Para 4 of his written statement of 19th August 2022 that "the complainant is vehemently busy in fabricating false evidence and unauthenticated papers". He has not addressed the fact that the website of the Institute had mentioned the names of these members as employees on his rolls of M/s Y.S. Thakar & Associates.

SUBMISSION :

The respondent is in receipt of Mail from one Mr. Mehul Parmar which are understandably to be on the same grounds and is summarized as per below which is reproduced as per below: (Annexure I)

Out of which I assume that below are 2 cases pending before disciplinary committee. :

Sr No	Case Reference Number	Complainant	Respondent	Prima facie opinion	Case matter
1	Com/21-CA(108)/2022	CMA Ashish Bhavsar	CMA Y S THAKAR	GUILTY	Wrong list of employees and wrong firm name used in CIL / CIL subsidiary tender
2	Com/21-CA(109)/2022	CMA ANUJ PATHAK	CMA R K PATEL	GUILTY	Wrong list of employees and wrong firm name used in CIL / CIL subsidiary tender

On the same grounds of wrong list of employees & wrong firm name, I filed below complaints:

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Sr No	Case Reference Number	Complainant	Respondent	Prima facie opinion	Case matter	Further remarks
1	COM/21-CA(132)/2024	Mehul parmar	CHANDRA WADHWA & CO	NOT GUILTY	Wrong list of employees and wrong firm name used in CIL / CIL subsidiary tender	The respondent firm has issued employment letters to practicing cost accountants which are duly accepted by employee cost accountants who are in practice
2	Com/21-CA(135)/2024	Mehul Parmar	Shome & benerjee	NOT GUILTY	Wrong list of employees and wrong firm name used in CIL / CIL subsidiary tender	The respondent firm has issued employment letters to practicing cost accountants which are duly accepted by employee cost accountants who are in practice
3	COM/21-CA(133)/2024	Mehul Parmar	Arindham & Associates	NOT GUIKTIY	Wrong list of employees and wrong firm name used in CIL / CIL subsidiary tender	The respondent firm has issued employment letters to practicing cost accountants which Mr CMA Devendra Kumar Dilliwar (M-42145) has denied the fact that he is in employment with respondent firm (refer complaint no. Inf-CA(146)/01/04/2024
4	Com/21-CA(136)/2024	Mehul Parmar	Balwinder & Associates	NOT GUILTY	Wrong list of employees and wrong firm name used in CIL / CIL subsidiary tender	The respondent firm has issued employment letters to practicing cost accountants which CMA MANPREET KAUR has denied the fact that she is in employment or any associate ship with respondent firm (refer complaint no.

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भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

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						Inf- Inf-CA(147)/01/04/2024
5	INF-21-CA-164-2024	MEHUL PARMAR	VIJENDER SHARMA & CO	NOT GUILTY	WRONG RUBBER SEAL PASTED ON TENDER DOCUMENTS	NAME APPROVED AS PER ICMAI WEBSITE IS VIJENDER SHARMA & CO. WHEREAS SEAL USED IS VIJENDER SHARMA & COMPANY (EXTRA LETTERS OF "MPANY: IS USED WHEREAS IN CASE NO. Com/21-CA(108)/2022 PRIMA FACIE OPINION OF GUILTY IS FORMED FOR USING EXTRA LETTER "K" IN RUBBER SEAL OF YS T HAKAR & ASSOCIATES INSTEAD OF Y S THKKAR & ASSOCIATES RUBBER SEAL IS USED.

I fail to understand:

1. That for the same grounds, same cause of misconduct and attracting same clause of disciplinary schedule how can Director Discipline can form different prima facie opinions of being GUILTY OR NOT GUILTY.
2. I also fail to understand that for case No. Com/21-CA(108)/2022 & Com/21-CA(109)/2022, Director Discipline has formed prima facie opinion of guilty and placed the matter before Disciplinary Committee and for similar nature of cases Director Discipline has formed prima facie opinion of NOT GUILTY and placed the matter before Board of Discipline.
3. Fun fact is BOARD OF DISCIPLINE only looks after cases in which Director Discipline forms opinion that only Schedule 1 clauses of ICMAI disciplinary schedule are attracted and Disciplinary Committee looks after cases in which Schedule 1 as well Schedule 2 clauses are attracted.
4. I also fail to understand that for same clause of showing wrong list of employees/associates which attracts clause " (3) while inviting professional work from another cost accountant or while responding to tenders or enquiries or while advertising through a write up, or anything as provided for in items (6) and (7) of Part I of this Schedule, gives information knowing it to be false." Of schedule 1 in case No. Com/21-CA(108)/2022 & Com/21-CA(109)/2022 below clause is also attracted (2) in the opinion of the Council he brings disrepute to the profession or the institute as a result of his action whether or not related to his professional work of schedule 1 as well as (1) contravenes any of the provisions of this Act or the regulations made there-under or any guidelines issued by the Council of Schedule 2 and (3) includes in any information, statement, return or form to be submitted to the Institute, Council or any of its Committees, Director

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(Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority any particulars knowing them to be false of Schedule 2.

5. One more fun fact that DIRECTOR DISCIPLINE IS ASKING FROM MYSELF (BEING COMPLAINANT IN CASE NO . Inf-CA(146)/01/04/2024 WHEREAS IN CASE NO. Com/21-CA(108)/2022 & Com/21-CA(109)/2022, Director Discipline himself has written letters to employees of respondent firms and their employees whether they are actually on rolls of firms which has shown them employees or associates.

6. Also in case no Com/21-CA(108)/2022, Director Discipline has written letter to Coal India subsidiary SECL ltd whether the list of employees/associates shown by Y S THAKAR & ASSOCIATES are part of tender documents or not but in other cases Director Discipline has not written such letters and asked complainant to provide employment letters issued by respondent firms.

7. Also one more fun fact is that in case no COM/21-CA(132)/2024 wherein M/s Chandra Wadhwa & co is respondent firm and I being complaint , I have clearly shared employment letters issued by Chandra Wadhwa & co. to practicing cost accountant who are also salaried employees of their firm and the employees has also signed employment letters as a token of acceptance but Director Discipline has made prima facie opinion of NOT GUILTY. (Refer attachment). Also I have taken reply from membership deptt and they clearly mentioned that the practicing cost accountant which was shown as employee by Chandra Wadhwa & co has given declaration that he is not in employment and he should be issued Certificate of practice.

8. One more fun fact is that in Chandra Wadhwa & co. one of the partner is son of Immediate past president of ICMAI who is also present member of Disciplinary Committee.

9. Also till date I have not received even first reply/rejoinder from Director Discipline as the cases are pertaining to his relatives/related parties/past partners of same Immediate past president of ICMAI who is also present member of Disciplinary committee which clearly deviates my rights as complainant under ICMAI REGULATIONS stating (4) On receipt of the written statement, if any, the Director may send a copy thereof to the complainant and the complainant shall, within 21 days of the service of a copy of the written statement, or within such additional time, not exceeding thirty days, as may be allowed by the Director, forward to the Director, his rejoinder on the written statement.

10. Also I fail to understand that in case no. Com/21-CA(108)/2022 & Com/21-CA(109)/2022 where director discipline was not having any Relying upon documents like employment letters/tender clause requiring employment of cost accountants etc., how he has formed prima facie opinion of guilty.

From the above mail It is very much evident that Institute has been in receipt of many similar complaints and for the same tender in which the case pertains there are other bidders as per below :

31/08/2025

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THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA
भारतीय लागत लेखाकार संस्थान
Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

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Bids List

S.No	Bid Number	Bidder Name	Submitted Date	Status	Reason	Status Updated On	Qualfiied assistants who shown as employees
3	535559	Arindam and Associates	7/8/2020 16:11	Accepted-AOC	Appointed	10/1/2020 12:08	Devendra Kumar Dilliwar (M-42145)
6	537805	Chakraborty Kapoor And Co LLP	7/15/2020 17:44	Accepted-AOC	Appointed	10/1/2020 12:08	Prashant Varshney M-44370
7	536302	CHATTERJEE GAZI AND ASSOCIATES	7/11/2020 0:08	Rejected-Technical	Rejected	10/1/2020 11:51	Mousumi Chatterjee (28868) Sheo Kumar Thakur(40216) RAJIB SANTARA 37715 DULAI CHANDRA PAL 36737
8	535069	diwanji and company	7/7/2020 17:16	Rejected-Technical	Rejected	10/1/2020 11:51	Bhargav nagar 41571 practising CA rucha sheth ambika jha
11	537504	M Goyal and Co	7/15/2020 19:57	Rejected-Technical	Rejected	10/1/2020 11:51	manali goyal
12	535581	MM and Assocaites	7/8/2020 18:07	Rejected-Technical	Rejected	10/1/2020 11:51	neeraj upreti 43150 ankit bahuguna 45157 manisha bhatia 48548
16	535456	R K Bhattacharjee And Co.	7/16/2020 12:23	Rejected-Technical	Rejected	10/1/2020 11:51	Tarak Nath Bhagat 35612
17	534091	ROHIT AND ASSOCIATES COST ACCOUNTANTS	7/15/2020 17:36	Rejected-Technical	Rejected	10/1/2020 11:51	tauhsifabani patel and ambica jha both shownby diwnaji & co and same is shwon by rohit vora ashishkuamr srivastava 36566 Chiragkumar Bipinkumar Modh rajednra kumar jayesh desai amruta deshpandemohit bansal abhay sinha md sami
18	536040	R RANJAN AND CO	7/14/2020 16:31	Rejected-Technical	Rejected	10/1/2020 11:51	Navin Kumar 32585 Ashutosh Kumar Sinha Paruchuru 4145

31/08/2025

Kolkata Office: CMA Bhawan, 12, Sudder Street, Kolkata-700016, Phone: +91-33-22521031/34-35
Noida Office: CMA Bhawan, C-42, Sector - 62, Noida (Uttar Pradesh) - 201309

20	534993	Shome and Banerjee	7/8/2020 13:31	Rejected-Technical	Rejected	10/1/2020 11:51	T. K GOPALAKRISHNAN7638SANJIB RATAN SAHA8081RUPAK KUMAR27681AVINASH KUMAR32170RAJ KISHOR KAUSHIK25576
21	535487	S K Bhatt and Associates	7/8/2020 13:32	Rejected-Technical	Rejected	10/1/2020 11:51	mukesh kumar & pawan kumar
23	534341	S SHEKHAR AND CO	7/7/2020 13:25	Rejected-Technical	Rejected	10/1/2020 11:51	anima sweta & yogesh jagoree
24	537472	TANMAYA S. PRADHAN CO.	7/15/2020 19:27	Rejected-Technical	Rejected	10/1/2020 11:51	sripad srinivasa S R Panigrahi amit sinha

From the above list :

1. M/s Shome & Benerjee has issued appointment letters to practicing cost accountants and in return the employment letter was duly accepted signed as a token of acceptance by said employees who are practicing cost accountants
2. Also as per mail from Mr Mehul Parmar, M/s Chandra wadhwa & co has also issued employment letters to practicing cost accountants and in return the employment letter was duly accepted signed as a token of acceptance by said employees who are practicing cost accountants

   Also in other cases as per mail from Mr Mehul Parmar, Director discipline in other cases has demanded for employment letters (for case against M/s Shome & Benerjee & other bidders in COAL INDIA tenders) to prove the fact that the said cost accountants who are show in in list are my employees and prosecution here has clearly failed to provided employment letters signed by respondent

   Also I have clearly replied that before formal contract I have informed the tender inviting authority that wrong list cost accountants was kept in tender documents and the list was replaced at the time of presentation before final selection of bidders.

   As per tender terms, Shortlisting for presentation that too 3 times of prospective bidders to finally appointed as cost auditors.

[illegible]
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Also prosecution has failed to prove that meaning of word " on rolls" means employment.

If such is the case the question arises that how M/s Diwanji & co. & Rohit & Associates has shown common employees named CMA anbika jha in the same tender.(as per table above)

Also vide reply from Coal India ltd bearing reference No. CILT/R/E25/00118 to RTI filed by CMA Vishal Shah (who is associate of respondent in current tender as alleged) they have informed that Dictionary meaning of word "associate" is to be referred which in no case means employment/employee/on rolls.
(Annexure IV)

Point No. 2: Whether the above clause means that the fully qualified assistant should be in employment with the firm for a minimum period of one year as on 31.03.2022? yes or no

Reply:-

The following clauses of the tender document no. CIL/GM (F)/2022-23/Cost Auditor/03 dated 28.07.2022 may be referred:-

> Note below the table in Sl. No. 3 Selection Criteria: Part A of the tender document no. CIL/GM (F)/2022-23/Cost Auditor/03 dated 28.07.2022 which is reproduced below:-

"Note: Partner/fully qualified/semi qualified assistant in the firm should be associated with the current firm for a minimum period of one year as on 31.03.2022."

The meaning of the word "Associated" may be referred from standard dictionary.

Also South eastern coalfields Ltd has chosen to remain silent regarding list of employees/associates as they have already received my updated list of associates during presentation.

Also ICMAI has recently issued a circular dated 27th February, 2025 Guidelines for Members on Use of Firm Name and submission of Tender documents in public interest of their members (as annexed) which states : (Annexure - III)

The Board of Discipline constituted under section 21A has referred matter to the Council to clarify and provide the clear directions to the members: The Council has deliberated on the matter in its 358th meeting held on 24th February, 2025 and decided to issue following guidelines which shall come into effect from the date of its notification:

Reporting about the Fully / Semi qualified Cost Accountants / Chartered Accountants on the Roll of the Firm while submitting the Tender documents 1. Fully qualified professional Cost Accountant / Chartered

Advaitan.
31/28/2021

Accountant / Company Secretary means the person holding membership of the ICMAI/ICAI/ICSI as the case may be.

2. Semi-qualified Cost Accountant / Chartered Accountant / Company Secretary means a person who is pursuing CMA / CA / CS course and is a registered student at the respective Institute and has cleared Intermediate or equivalent exam of the respective Institute.

3. An Associate in a professional services firm is typically a junior partner or a qualified individual working within the firm, recognized by the relevant professional Institute.

In response to tender inquiry where the information is sought about fully qualified/semi-qualified professional, whether as employees or associates or assistants or any other similar terminology used in the tender document, the firm shall only consider the persons who are in full time employment of the firm and not the persons employed by the partner's firm.

Hence from this circular which is prospective in nature from date of issue that there was no clear guidelines regarding who can be shown as associate and by this circular they have defined the meaning of word associate which is reproduced below:

1. *Council has noted that there are issues in interpretation of the said regulation and hence following clarification is issued which is binding on the members of the institute from the date of this notification / guideline –*

Thereby prosecution is not in position to prove this alleged findings.

Khurgar.
31/08/2025

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Point No III

iii. He had also incorrectly affixed a wrong seal of M/s Y.S. Thakkar & Associates in the Letter of Undertaking submitted by him to SECL. This shows the negligence which is not expected from a professional. The logic submitted by the respondent in his written statement that 'as far as the surname 'Thakar' which is my correct surname has been somewhere by typographical error appearing as Thakkar" does not seem to be tenable. The respondent himself admits this as "unintended mistake".

Reply : As already replied that this tender was applied during COVID lockdown times and with minimum resources available. The said seal was wrongly affixed with no bad intention as well as the firm number/ membership number written is correct.

Also at the time of taking work order, the same was corrected while submitting Eligibility certificate and there is no try/intent to impersonate any other cost accountant.

The said allegation is a not any intentional mistake to defraud/impersonation but an error done in generating wrong seal and the same is destroyed immediately when came in to my knowledge.

To err is human and should not be taken into complaint form unless it is intentional. Even the Director Discipline in his email dated 19th August, 2025 mailed to the respondent, has committed mistake by writing wrong complaint No. Com/21-CA(109)/2022 which was not against the respondent. The said complaint no is not against the respondent. (Annexure II)

31/08/2025

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Point no IV

iv. His letterhead also shows his qualification as 'AICWA' instead of 'ACMA'. This per se, is not a violation but it surely portrays the respondent's casual approach as the name of the Institute was changed as early as in February 2012 and the members of the Institute were advised to use descriptive letters "ACMA"/"FCMA" as suffix instead of "AICWA"/"FICWA".

Reply : There is no such misconduct in ICMAI disciplinary schedule and also prosecution has failed to prove the fact that ICMAI has informed to use letters ACMA/FCMA but has not given any guidelines not to use AICWA/FICWA.

v. *The fact that the complainant is not aware of any person having knowledge of facts of the case does not make the complaint invalid or infructuous Neither it is an attempt by the complainant of "a shot in the air" as claimed by the respondent. in his written statement*

Reply : No merits in this allegation.

15. It is pertinent to mention here that the Disciplinary Directorate was in receipt of a letter bearing number G/128/10/2023 dated 3rd October 2023 from the good office of the Secretary of the Institute, attaching therewith an extract of the 348th meeting of the Council of the Institute held on 27th August & 28th August 2023 referring the matter to the Disciplinary Directorate for initiating disciplinary proceedings against Shri Yashodhar Thakar, who is the respondent in the instant case and is understood to have received sensitive and vital information from two employees of Baroda Chapter of Cost Accountants without the permission of the then Chairman/Secretary of the Chapter. It is also understood that Shri Yashodhar Thakar, respondent has, in turn, passed the information to someone else so as to raise RTIs, DCs, complaints and/or notices in third person's name with the sole intention of not getting information but to create a wrong image of "mismanagement of ICMAI" and thereby tarnish the image of the Institute. *Thus, the respondent has a track record of indulging in unethical and disreputable acts.*

Reply : Separate complaint having Ref NO 141/2022 is filed and there is no allegations by complainant for this matter. I fail to understand how this allegation become part of prima facie opinion for complaint filed by Mr Ashish Bhavsar and I request director discipline to investigate that under whose influence this allegation became part of this complaint. Further, Director Discipline has to be cross examined on the aspects of letters sent by him to various persons, copies of which have not been provided to me

Bhavsar
31/05/2024

Prayer :

1. So far as issue of associated cost accountants is concerned, the whole prosecution/investigation is based on fraudulent interpretation of associate as employee or in employment or on rolls which is clarified by Coal India Ltd that they never meant associate as employee or in employment or on rolls and prosecution has failed to provide any Relying Upon document like employment letter issued by respondent.
2. Also I have full faith in ICMAI disciplinary committee that they will do impartial justice and they will not victimize me for taking vengeance/revenge under influence of Central council member who was president of ICMAI at the time of forming prima facie opinion and is also current member of the Disciplinary Committee of the Institute of Cost Accountants.
3. Also on the same grounds, I have filed complaint against M/s Diwanji & Co vide Complaint No. Com/21-CA(113)/2022 and the same is dumped in the Board of Discipline and not brought to Disciplinary Committee so that they feel insulted as case with respondent.
4. Also reputed firms like M/s Shome & Benerjee and M/s Chandra Wadhwa & Co has issued employment letters to practicing cost accountants (which is not done by respondent in current case) and the cases filed by Mr Mehul Parmar are also dumped to Board of Discipline and not brought to Disciplinary committee.
5. Also the tender inviting authority has chose to remain silent and has not confirmed the list as cost accountants on roll of respondent and also there is no harm to Tender authority.
6. Also the complainant has filed complaint in individual capacity who has not applied for the tender and no where in the whole prosecution documents there is power of attorney / representation letter of partnership firm authorizing Mr Ashish Bhavsar to file complaint on behalf of the firm. Thereby the complainant has no locus to file the said complaint.
7. Also ICMAI has issued a circular dated 27.02.2025 to safeguard interest of innocent victims like the respondent so that they do not become prey of vengeance /revenge of Central council members who are playing in background considering the fact that my loss is their gain.

31/08/2025

(v) Hon'ble Disciplinary Committee has taken the said submission on record. Committee noted that complainant has not submitted any written submission till date.

(vi) In regard to Adjournment requests of both the parties, committee noted that, as per the explanation clause of Rule 18 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the unavailability of the complainant, advocate, or authorized representative does not constitute valid ground for adjournment.

(vii) However, in the interest of upholding the principles of natural justice, the Committee decided to grant the respondent a final opportunity in the next meeting to submit concluding arguments

b) **Proceeding of 98th Meeting of Disciplinary committee held on 28th January 2026**

(i) That, Communication vide Notice dated 19th January, 2026 served through email, both the parties were informed that their matter has been listed for concluding arguments under Rule 18(16) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, on 28th January 2026.

(ii) The committee noted that vide email dated 21st January 2026, the Respondent sought an adjournment of the hearing scheduled on 28th January 2026, citing his proposed travel to Canada to visit his son. In support of the request, the Respondent furnished copies of the travel ticket dated 29th January 2026 at 2:55 AM and the return ticket dated 1 July 2026.

(iii) The committee noted that, as per the explanation clause of Rule 18 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the unavailability of the complainant, advocate, or authorized representative does not constitute valid ground for adjournment.

(iv) The Committee also took note of an email dated 24th January 2026 addressed by the Respondent, wherein certain grievances were raised against the conduct of the proceedings. For the sake of convenience, the relevant extract of the said email was taken on record.

Quote

> This is in continuation of my email seeking adjournment of the date of hearing for complaint No. Com/21-CA(108)/2022 which is scheduled on 28th January, 2026 at the time and venue stated in the email. Hope, based on the rule of law and natural justice, the Disciplinary Committee of the Institute of Cost Accountants of India would consider my genuine request and grant me an adjournment.
>
> Sir, if you recall the proceedings held where me and my advocate remained present at Delhi Office. During the proceedings my learned advocate Shri Rahul Malhotra, had requested to share the copies of the communication with the members and replies received from professionals whose names were alleged to be incorporated in the tender documents submitted by me. The same were agreed to be provided to us by CMA M K Anand sir and the Chairman of the Disciplinary Committee CMA B B Nayak sir.
>
> Please note that the same are not shared and or provided either to me or to my learned advocate. I once again request the Director Discipline to share the same on priority basis. Also request the Director Discipline that without sharing such communication, no further hearing be held. In the Prima Facie Opinion, the Director Discipline has mentioned reference of such communication based on which prima facie opinion was formed. This is vital communication for us . Has any of the professionals replied that they were in employment with my firm of Cost Accountants? Please share the same on TOP MOST PRIORITY.
>
> Sir, with due respect to the Disciplinary Mechanism of the institute, why the

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committee is in hurry to finalise the complaint against me and keeping aside the complaint filed by me against M/s Diwanji & Co which I filed on the same ground and within a gap of not more than 10 days. Is it because M/s Diwanji & Co happened to be the close business aid of one of the Disciplinary Committee members?

I fail to understand what makes the Director Disciplinary to finalise and close the complaint against me without providing details requested and agreed to during proceedings by the Disciplinary Committee?

Why is the Disciplinary Director not replying to my email requesting him to share the status of the Complaint filed by me against M/s Diwanji & Co? Also Director Discipline has deviated Rule 9(2) (a)- Cost & Works Accountants (Procedure of Investigation of Professional and other Misconduct and conduct of Cases) Rules 2007Examination of provision

Is the Director Discipline working under pressure and or direction from some interested Disciplinary Committee member/s?.

The questions are many more but to cut short the email, please share :

1) Communication by the Director Discipline with the professionals whose names were alleged to be included by me in the tender documents and reply received from them.

2) Status of the Complaint No. Com/21-CA(113)/2022 - CMA Yashodhar Shashikant Thakar (M-9688) Complainant V/s M/s Diwanji & Company, Cost Accountant (FRN 000319)-Respondents.

I request the Disciplinary Committee of the Institute of Cost Accountants of India not to plan any hearing without sharing the details requested.

Unquote

(v) Upon consideration of the aforesaid email, the Committee observed that the Respondent alleged non-receipt of copies of replies filed by certain CMAs during the investigation conducted by the Director (Discipline), despite allegedly requesting the same during the proceedings before the Committee. The Committee noted that the said allegation was vague, as the Respondent failed to specify the date of hearing on which such request was allegedly made.

Upon perusal of the records, the Committee found that no such request was on record. Without prejudice to the same, the Committee further observed that even if any oral request had been made, the Respondent ought to have followed it up with a written request, which was admittedly not done. Further, the Respondent had not raised this issue in his written concluding submissions.

The Committee also observed that all communications exchanged with the concerned CMAs and their replies had been duly referred to and reproduced in the Prima Facie Opinion (PFO), which had already been served upon the Respondent. Subsequent to the issuance of the PFO, several hearings were conducted and written submissions were filed by the Respondent, including the concluding written submissions, without raising this issue at any stage.

Accordingly, the Committee was of the view that raising this contention at this belated stage was nothing but an attempt to delay the proceedings. The Committee, therefore, cautioned the Respondent against making false, baseless, and unsubstantiated submissions.

(vi) With regard to the Respondent's contention concerning pendency of other cases, the Committee noted that no formal application for tagging of matters had been filed. In absence of any such application, the said contention was found to be untenable and was rejected.

(vii) After due deliberation, the Committee unanimously decided to reject the adjournment request, recording the following reasons:

i. The Committee had already granted one adjournment for concluding arguments on 8th September 2025 on the ground of availability of the advocate. Grant of a second adjournment on the ground of his unavailability was held to be frivolous, particularly when the case was being represented through an authorised Advocate.

ii. The grounds cited by the Respondent are found to be frivolous and intended to delay the proceedings, as the scheduled travel is on 29th January 2026 at 2:55 AM, whereas the hearing is fixed on 28th January 2026 at 11:15 AM. The Respondent could have conveniently appeared before the Committee through virtual mode.

iii. The Respondent had submitted a copy of the return ticket dated 1st July 2026, and therefore, the proceedings could not be kept in abeyance for an extended period of approximately six months, especially when the Respondent had adequate opportunity to participate through virtual mode.

iv. The Committee further noted that the Respondent had already filed written concluding submissions running into 165 pages, along with annexures, on 3rd September 2025, which were duly taken on record.

(viii) In view of the above facts and circumstances, the Committee decided to proceed further on the basis of the material available on record.

18. <u>Findings of Disciplinary Committee under rule 18(17):-</u>

A) The present complaint has been filed by CMA Ashish kumar Sureshchandra Bhavsar against CMA Yashodhar Shashikant Thakar, alleging multiple instances of professional misconduct.

B) For the purpose of adjudication, the Committee has crystallized the charges and its corresponding findings under the following principal allegations:

a) **<u>Allegation No. 1</u>:- Misrepresentation of firm name:** That the respondent continuously misrepresented his proprietary firm name by using the style "Y.S. Thakkar & Associates" in tender documents submitted to South Eastern Coalfields Ltd (SECL), though the Institute's records confirm that his registered proprietary concern is "Y.S. Thakar & Associates" (FRN 100463).

<u>Findings of committee</u>

(i) It is an undisputed fact that the approved and registered name of the Respondent's firm with the Institute is "Y.S. Thakar & Associates." However, it has been observed that the Respondent used the name "Y.S. Thakkar & Associates" in the rubber stamp affixed on official documents.

(ii) The Respondent submitted that "Thakar" is his correct surname; however, due to a typographical error, the same was inadvertently mentioned as "Thakkar" in the rubber stamp. He further submitted that there are several spelling variations of similar surnames prevalent in Gujarat, such as Thaker, Thakar, Thakkar, Thakor, Thakur, etc., and that the use of "Thakkar" was purely inadvertent and has since been rectified by him.

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(iii) The Committee observes that Clause 108 of the CMA Regulations, 1959 stipulates that prior approval of the Council is required for the use of a firm name or trade name. Further, Clause 108(8)(a) of the said Regulations expressly prohibits the use of any name which has not been specifically approved by the Council.

(iv) The Committee further observes that in the very same tender documents, the Respondent had used the correct name of the firm on the official letterhead, whereas the rubber stamp affixed on the said documents reflected an incorrect spelling of the surname. The simultaneous presence of both the correct and incorrect spellings on the same set of documents prima facie indicates that the discrepancy arose on account of inadvertence or a typographical error rather than any deliberate act. In such circumstances, the explanation advanced by the Respondent appears to carry credence, thereby indicating absence of *mens rea* or any deliberate intent to misrepresent.

(v) The Committee further observes that the present case is distinguishable from matters involving the unauthorised use of expressions such as "& Co." or "& Associates", which may create a misleading impression regarding the constitution or status of a firm. In the instant case, the discrepancy relates merely to the insertion of an additional character "k" in the surname. In the considered view of the Committee, such a minor orthographical variation is not of a nature likely to mislead the public or cause any material confusion regarding the identity of the firm.

(vi) The committee emphasizes the importance of strict adherence to the Institute's guidelines regarding firm names and seals. However, minor deviations without intent to deceive or cause harm do not constitute professional misconduct warranting disciplinary action.

(vii) The Respondent is advised to use the correct firm name as approved by the Council in all official communications and documents.

(viii) In view of the aforesaid facts and circumstances, the Committee holds that the conduct of the Respondent, in the present instance, does not amount to professional misconduct under the relevant provisions of the Cost Accountants Act, 1959 and the Regulations framed thereunder.

b) **<u>Allegation No. 2</u>:-** It is alleged that the Respondent continued to use the acronyms "AICWA" on firm letterheads and tender documents instead of "ACMA", despite statutory amendments notified in January 2012 by the Government of India mandating the revised nomenclature.

<u>Findings of Committee</u>

(i) It is an admitted position that, pursuant to the statutory amendments which came into effect in January 2012, the designations "AICWA/FICWA" were substituted with "ACMA/FCMA."

(ii) The Committee notes that the Respondent continued to use the obsolete nomenclature in official tender submissions even after a lapse of more than eight years from the date on which the said amendment came into force.

(iii) A member of the Institute is expected to remain updated with statutory amendments affecting professional designation.

(iv) The Respondent has contended that the designation "AICWA" came to be used inadvertently due to the use of an old letterhead. The Committee, however, finds the said explanation devoid of merit. The change in designation was effected by the Government of India through the Cost and Works Accountants (Amendment) Act, 2011, whereby Section 5(2) of the Cost Accountants Act, 1959 was amended, and the same was duly notified in the Official Gazette of India on 12th January, 2012. In view of the considerable passage of time since the said amendment, the plea of inadvertent use of an outdated letterhead is neither tenable nor acceptable.

(v) The Committee holds that the respondent's conduct demonstrates professional negligence and indifference to regulatory compliance constitutes professional misconduct, rendering him guilty of contravention of clauses (1) of Part II of the Second Schedule to the Cost Accountants Act, 1959

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c) **Allegation No. 3:-** It is alleged that in response to the Notice Inviting Tender (NIT) issued by SECL, the Respondent declared that apart from himself, his firm had 13 fully qualified assistants (Cost Accountants) on roll as on 1st January 2020, along with their dates of joining. It is further alleged that many of the said individuals were neither employees nor associated with his firm in any regular professional capacity. By including in the said list individuals who were neither employed with nor associated with his firm, the Respondent misrepresented the facts and thereby misled the tendering authority

Findings of Committee

(i) The respondent in his tender application to M/s SECL that apart from him, his firm is having 13 no of qualified assistants (Cost Accountants) on Roll as on 1st January, 2020. Further, the response to question about Investigation reveals that many of the named individuals were not associated with the respondent's firm in any professional capacity.

(ii) During the course of investigation, the concerned professionals submitted their respective positions. A consolidated summary is reproduced below:

S.no	Relationship with Respondent firm	Name of Cost Accountant
a)	Partner of Firm	1) CMA Jayesh Prajapati 2) CMA Zarna Shah
b)	"Case to Case" basis/ Need Basis Association only	1) CMA Santosh Jejurkar
c)	No association at all (independent CA in practice)	**1)** CMA Murlidhar Jagetiya
d)	Categorical denial of any association	1) CMA Ankit Gupta 2) CMA Saurabh Kumar 3) CMA Birendra Prasad

		4) CMA Malay Hapani 5) CMA Heena Doshi 6) CMA Md. Shamim Ansari 7) CMA Vishal Shah
e)	Family acquaintance and not an employee of the Respondent.	CMA M.B. Kaka
f)	No Response	CMA Amit Sinha

(iii) The Committee notes that the "Guidelines for Members on Use of Firm Name and Submission of Tender Documents" issued on 27th February 2025, approved by the 358th Council Meeting by Secretary, ICMAI define while submitting the tender documents; the firm shall consider the full time employment of firm as Associates. However, as these Guidelines came into force only on 27th February 2025, subsequent to the period of dispute, and therefore have no bearing on the present adjudication.

(iv) The Respondent has failed to specifically controvert or substantively rebut the said allegation and has instead made vague and evasive submissions, which appear to be intended to protract and delay the proceedings rather than address the merits of the charge

(v) The issue before the Committee is two-fold:

a. whether the expression "associates" in the CIL Notice Inviting Tender (NIT) could legitimately be interpreted to include professionals associated on a case-to-case basis; and

b. whether the inclusion of a person's name in tender documents without their consent constitutes professional misconduct.

(vi) The committee observes that tender conditions issued by CIL did not define "associates", and at the relevant time there were no guidelines of the Institute clarifying whether partners in another firm or case-to-case consultants could be shown as "associates". In the absence of such clarity, some benefit of doubt may be extended to the respondent with respect to those persons who admitted occasional association.

(vii) However, the inclusion of names of persons who were neither employees, nor partners, nor had given consent particularly CMA Murlidhar Jagetiya, CMA Saurabh Kumar, CMA Birendra Prasad, CMA Malay Hapani, CMA Heena Doshi, CMA Md. Shamim Ansari, CMA Vishal Shah, CMA M.B. Kaka cannot be condoned.

(viii) The submission of the Respondent that no harm or injury has been caused to SECL or to any other person on account of the declaration made by the Respondent's firm during the tender process does not hold any merit. The Committee observes that the correctness and truthfulness of a declaration must be assessed on its own merits, and the making of a false declaration constitutes misrepresentation per se, irrespective of whether any consequential loss or injury has resulted therefrom.

(ix) The use of names of professionals without their knowledge or consent for the purpose of strengthening eligibility in a tender process amounts to a grave breach of professional ethics and undermines the integrity of the profession.

(x) Such conduct cannot be justified as interpretational ambiguity. It reflects deliberate misstatement of facts in a public tender document. The Committee accordingly holds that the respondent is guilty of professional misconduct under

- clause (3) of Part III of the First Schedule,
- clause (2) of Part IV of the First Schedule, and
- clause (1) of Part II of the Second Schedule of the Cost Accountants Act, 1959.

(xi) The above findings are without prejudice to the rights and remedies of the professionals whose names were used in the tender documents without consent, CMA Murlidhar Jagetiya, CMA Saurabh Kumar, CMA Birendra Prasad, CMA Malay Hapani, CMA Heena Doshi, CMA Md. Shamim Ansari, CMA Vishal Shah, CMA M.B. Kaka, to initiate such proceedings against the respondent as may be available to them under the relevant provisions of law for the time being in force.

CMA T.C.A. Srinivasa Prasad
PRESIDING OFFICER

Shri Saraswati Prasad, IAS (Retd.)
GOVERMENT NOMINEE

Mrs. Meenakshi Sharma IA &AS (Retd.)
GOVERMENT NOMINEE

CMA Manoj Kumar Anand
MEMBER

Place: New Delhi
Date: 9th March, 2026