The Institute of Cost Accountants of India

Board of Discipline u/s 21A of The Cost Accountants Act, 1959

Final order number: ICMAI/BOD/2026/38

Complaint number	Com/21-CA(115)/2022
In the matter of	CMA Mukesh B. Kaka (M/13599) [Complainant] Vs. CMA Mihir Vyas (M/31564) [Respondent]
Date of Hearing	As per records and order sheet
Date of order	3rd July, 2026

CORAM:

1	Shri P.K. Pujari, IAS (Retd)	Presiding Officer
2	CMA (Dr.) Ashish Thatte	Member

PRESENT IN HEARINGS

1	CMA(Dr) Hemant Kumar Sindhwani	Director (Discipline)

Brief of the Case: -

1. The Disciplinary Directorate is in receipt of a complaint in Form I dated 7th August 2022 along with the prescribed complaint fee of Rs 2950/- (inclusive of GST) from CMA Mukesh B. Kaka (hereinafter referred to as the "complainant"), against CMA Mihir Vyas (hereinafter referred to as the "respondent") bearing membership number 31564, containing certain allegations against the respondent falling under various provisions of the Cost Accountants Act, 1959.
2. The complaint, comprising 116 pages including annexures, primarily contains allegations relating to the internal administrative functioning of the Baroda Chapter of the Institute, including matters concerning the award of work orders, procurement procedures,

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approval of expenditure, alleged conflict of interest, adoption of accounts, and payments made by the Chapter to certain entities. The particulars of the complaint, as set out in Form I, are reproduced herein below 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)	Mukesh B. Kaka Membership No.13599
2	Name of the member/firm against whom complaint is being made: (With membership number/registration number of the firm, if known)	Mihir Vyas (M-31564) PARTNER IN FIRM: DIWANJI & ASSOCIATES FRN 100227 (FROM NOV 2021 UPTO 15.06.2021 DIWANJI & CO FRN 000339 BRANCH IN CHARGEIN FIRM DALWADI & ASSOCAITES FRN 000338
3	Latest address of the complaint for communication	A-57 Sai Sarjan Suri Pharma Road VADODARA 390012 Pin Code:.. 390012
4	Last available professional address of the member or the firm against whom the complaints is made	MIHIR VYAS C1 RUSHABH TENAMENT NR SITABAG GROUND MANJALPUR VADODARA 390011 M-9714029062
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.	Awarded work order to M/S Microvista Technologies Pvt Ltd. The said work order of designing of website and Android Application was awarded by Mihir Vyas then secretary of Baroda Chapter of Cost Accountants to M/S Microvista Technologies Pvt Ltd. In which Directors are Ashwin G Dalwadi, Malhar A Dalwadi and Malav A Dalwadi who are cost accountants. Mr Mihir Vyas is also branch incharge of firm Dalwadi & Associates having FRN no. 00338 from June 2018 to June 2021 viz during the period in which work order was awarded to M/S Microvista Technologies Pvt Ltd. Partners in firm Dalwadi & Associates having FRN no 000338 are Mr Ashwin G Dalwadi

		Malav Dalwadi Malhar Dalwadi and Mr Haren Bhatt upto June 2021. Hence Both to M/S Microvista Technologies Pvt Ltd and M/S A G Dalwadi & Associates have common partners named Mr Ashwin G Dalwadi Malav dalwadi Malhar Dalwadi and Mr HarenBhatt with branch incharge in M/s A G Dalwadi & Associates as Mr Mihir Vyas. The common partners and branch incharge clearly satisfies the criteria of "Near Relationship & conflict of interest circular issued by CENTRAL VIGILANCE COMMISION DATED 24.11.2011. (Circular attached) As certified by Mr. Ashwin G Dalwadi under his letter head that Dalwadi & Associates & Diwanji & co are jointly handling many audits and has business relations with Diwanji & Co in which Mr Mihir Vyas is also partner. As per office order dated 16.06.2017 as decided in 304th Meeting on 17-18th May 2017 GFR AND CVC guidelines shall be followed for all procurement for all offices of the Institute including chapters (Circular attached) In the said circular it is clearly mentioned that Consultants (including their experts and sub consultants) that have a close business or family relationship with professional staff of employer (or on project implementing agency) who are directly or indirectly involved in any part of (i) Preparation of TOR of assignment (ii) Selection of process of the contract (iii) Supervision of such contract may not be awarded a contract unless the conflict is stemming from this relationship has been resolved in a manner acceptable to the employer throughout the selection process and the execution of the contract. Mr. Mihir Vyas then secretary of Baroda chapter of Cost Accountants was part of meeting held of 20.02.2020 and decided the budget for website expenses as Rs.1 Lakh and

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		approved it. Also Mr. Mihir Vyas was part of committee member for tendering for the said work. Also Mr. Mihir Vyas was part of execution team for website development and his own photo is available on website http//www.cmabaroda.com Also Mr. Mihir Vyas has floated fake tenders for the said work without any newspaper advertisement website and notice board. No offer was invited by Baroda chapter of cost accountants. On the contrary vendors has given their quotes without offers invited by the chapter. NO EMD CLAUSE KEPT IN TENDER NO SECURITY DEPOSIT CLAUSE KEPT IN TENDER NO LIQUIDATED DAMAGE CLAUSE KEPT IN TENDER NO LAST DATE OF RECEIPT OF TENDER AND MODE OF RECEIPT OF TENDER NO NEAR RELATIONSHIP CERTIFICATE WAS KEPT IN TENDER NO CONFLICT OF INTEREST DECLARATION WAS KEPT IN TENDER THIS CLEARLY VIOLATES GFR 2017 AND CVC AND CAG CIRCULARS WHICH WAS DONE INTENTIONALLY TO GIVE WORK TO COMPANY BELONGIONG TO MR AG DALWADI WHO IS CENTRAL COUNCIL MEMBER AND HAS BUSINESS RELATIONSHIP WITH MR MIHIR VYAS. Mr. Mihir Vyas has misused his powers and deviated Delegation of power issued by Institute of Cost accountants of India dated 01.04.2015 (as attached) having award power of Rs. 25000 and awarded work of Rs 1.29 lakhs (voucher attached) to firm in which he personally had close business relationship (being branch incharge of A G Dalwadi & Associates having common partners and directors as mentioned above. Mr. Mihir Vyas has intentionally misused his

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		power to benefit Mr. A G Dalwadi and his company M/s Microvista Technologies Pvt Ltd. The said work was awarded by Secretary Baroda Chapter of Cost Accountants without issuing any work order to M/s Microvista Technologies Pvt Ltd. Institute has already provided website to Baroda chapter of Cost Accountants having domain name https://icmai.in/Chapters-Website/Indexphp?chapterID=17&parent+WIRC and there was no need to create separate website for Baroda Chapter of Cost Accountants. The said Act done by Then Secretary Mihir Vyas was fraudulent. Intentional and siphoned off Chapters Money for benefit of Mr Ashwin Dalwadi who himself was Chairman of IT Committee of Central Council of Cost Accountants of India. There was no approval from IT COMMITTEE OF THE INSTITUTE OF COST ACCOUNTANTS OF INDIA was taken by Secretary Mr Mihir Vyas of Baroda Chapter of Cost Accountants for creating new website http://www.cmabaroda.com/ for already having website issued by Institute of Cost Accountants of India http://icmai.in/chapters-websiteindexphp?chapterID=17&parent=WIRC HENCE THE SAID ACT DONE BY MR MIHIR VYAS HAS 1. DEVIATED CVC CIRCULAR OF CONFLICT OF INTEREST 2. DEVIATED DELEGATION OF POWER 3. ADOPTED FAKE TENDERING PROCEDURE 4. NO APPROVAL FROM HQRS OR IT COMMITTEE OF INSTITUTE 5. CREATED FAKE QUOTES TO SUPPORT QUOTATION GIVEN OBY AWRDED PARTY

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		6. SIPHONED OFF PUBLIC MONEY IN THE FIRM IN WHICH CHAIRMAN OF IT COMMITTEE OF INSTITUTE IS DFIRECTOR VIZ A G DALWADI IS ALSO DIRECTOR OF MICROVISTA TECHNOLOGIES PVT LTD AND CHAIRMAN OF IT COMMITTEE OF ICMAI. 7. AWRDED WORK WITHOUT WORK ORDER 8. BOOKED WEBSITE AND ANDROID APPLICATION EXPENSES IN REVENUE EXPENSE INSTAED OF CAPITAL EXPENSE 9. HAS NOT DISCLOSED HIS RELATION WITH MICROVISTA TECHNOLOGIES PVT LTD IN AUDITED ACCOUNTS. THE SAID ACT OF MR MIHIR VYAS HAS CLEARLY ATTRACTED PROVISIONS OF PARTY IV OTHER MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY (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. THE SAID ACT OF MIHIR VYAS HAS CLEARLY ATTRACTED PROVISIONS OF PART II PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY (1) Contravenes any of the provisions of this Act of the regulations made there –under or any guidelines issued by the Council; THE SAID ACT OF MIHIR VYAS HAS CLEARLY ATTRACTED PROVISIONS OF THE SECOND SCHEDULE [See sections 21(3), 21B (3) and 22] PART I RELATION TO COSTACCOUNTANTS IN PRACTICE (5) Fails to disclose a material fact known to

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		him in a cost of pricing statement, which is not disclosed in a cost of pricing statement but disclosure of which is necessary in making such statement where he is concerned with such statement in a professional capacity. (6) Fails to report a material mis-statement known to him to appear in a cost or pricing statement with which he is concerned in a professional capacity. (7) does not exercise due diligence or is grossly negligent in the conduct of his professional duties. THE SAID ACT OF MIHIR VYAS HAS CLEARLY ATTRACTED PROVISIONS OF CHAPTER BYE LAWS STATING PROVIDED THAT NO FUNDS OF THE CHAPTER SHALL BE APPLIED DIRECTLY INDIRECTLY FOR PAYMENT OF MEMBERS OF MANAGEMENT COMMITTEE OF CHAPTERS EXCEPT FOR REIMBURSING FOR ANY EXPENSE INCURRED BY THEM FOR BUSINESS OF CHAPTERS. A similar order issued by Disciplinary Directorate in the matter of Shri A B NAWAL is attached for ready reference. (Only difference is in the case of Shri A B NAWAL his wife was involved and her Partner/Branch incharge is involved) COMPLAINT PART 2 ADOPTION OF FRAUDULENT ACCOUNTS OF BARODA CHAPTER OF COST ACCOUNTANTS As per audited accounts published by Institute it is qualified by auditor that a) We did not audit the financial statements of four Regional Councils and ninety one Chapters whose financial statements reflect total assets of Rs. 184,75,69,767/- and total revenue of Rs. 5,14,

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		08,779/- as considered in the financial statements. The financial statements of these Regional Councils have been audited by other auditors, appointed by the respective Regional Councils and the financial statements of majority of these Chapters have been audited by Cost Accountants appointed by Governing Bodies of the Chapters in terms of regulation 133 of the Cost and Works Accountants Act 1959 and Clause 26 of the Chapter Bye-Laws of the Institute whose reports have been furnished to us by the Management and our opinion on the financial statements, in so far as it relates to the amounts and disclosures included in respect of these Regional Councils and Chapters and our report in terms of sub section (3) and (11) of Section 143 of the Act, in so far as it relates to the amounts and disclosures included in respect of these aforesaid Councils and Chapters is based solely on the reports of the other auditors and Cost Accountants respectively. HERE BEING SECRETARY OF BARODA CHAPTER OF COST ACCOUNTANTS MR MIHIR VYAS HAS INTENTIONALLY ADOPTED & SIGNED ACCOUNTS OF BARODA CHAPTER OF COST ACCOUNTANTS WHICH WERE FRAUDULENT BOGUS AND BASED ON FAKE RECORDS. The said accounts are fraud and comments of Mr Y S Thakar who is also committee member of Baroda Chapter of cost accountants are attached herewith. There are many bogus vouchers issued to friends, partners and relatives of Mr Mihir Vyas as highlighted in mail of Y S Thakar. In the said Accounts both Auditor and Auditee are same. As Mr Mihir Vyas was partner in the firm M/s Diwanji & Associates and Mrs Reema Mehta was also partner in the same firm as on date of

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		signing of Audited Accounts of Baroda Chapter of Cost Accountants. The said act is intentionally done with Malafide intention to benefit M/S Diwanji & Associates by son of Mr S N Diwanji who was then Chairman of Baroda Chapter of Cost Accountants and Partners of Diwanji & Associates who Are Secretary and Jt. Secretary of Baroda Chapter of Cost Accountants. Here the whole Management Committee including Chairman, Vice Chairman, Treasure, Secretary and Joint Secretary of them Baroda Chapter of Cost Accountants has fraudulently adopted Audited Accounts of Baroda Chapter for hiding their frauds and Fake Accounting including forged and fake vouchers. Also the said firm M/S Diwanji & Associates is having Lead Partner Mr S N Diwanji (M-753) whose son Mr Hardik Diwanji was then Chairman of Baroda Chapter of Cost Accountants. Hence the said has attracted following Penal clause of ICWAI 1. It has brought disrepute to the Institute by attractive clause 2 of Part IV of Part 1 PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE by Reema Mehta. 2. Here the whole Management committee including Chairman Vice Chairman, Treasurer Secretary and Joint Secretary of them Baroda Chapter of Cost Accountants has fraudulently adopted Audited Accounts of Baroda Chapter for hiding their frauds and Fake Accounting including forged and fake vouchers. 3. Mr Mihir Vyas has attracted provisions of THE SECOND SCHEDULE [See sections 21(3), 21B (3) and 22] PART 1 PROFESSIONAL MISCONDUCT IN RELATION TO COST

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		ACCOUNTANTS IN PRACTICE clause no 5) fails to disclosed in a cost or pricing statement but disclosure of which is necessary in making such statement where he is concerned with such statement in a professional capacity, by not disclosure her relation with AUDITTEE. 4. Mr Mihir Vyas has attracted provisions of THE SECOND SCHEDULE [See sections 21(3), 21B (3) and 22] PART I PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE clause no (7) does not exercise due diligence, is grossly negligent in the conduct of his professional duties by not disclosing her relation with AUDITEE 5. Mr MIHIR VYAS IS well educated being Cost Accountants cannot refrain from the fact that fraudulent and Related Auditor audited accounts has been approved by Baroda Chapter of Cost Accountants & cannot give excuse that at time of appointment Reema Sen Niren Kumar Mehta was not partner of Diwanji & Associates and only at the time of signing of Audit Report she was partner of Diwanji & Associates which is material dates viz 31.03.2021 and 15.05.2021 of signing of Audit Report. The whole Act of Fraudulent Accounts is done to Favour M/S Diwanji & Associates by Chairman Hardik Diwanji who is son of Sr Partner S N Diwanji & his partners Mr Mihir Vyas and Amruta Vyas. 6. As accounts of Baroda Chapter of Cost Accountants are consolidated at WIRC and Central Audited Accounts, the said act of Mr MIHIR VYAS which Secretary also attracted provision of

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		Part II PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY (3) 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 said act of auditor and Management Committee of Baroda Chapter also attracts THE SECOND SCHEDULE [see sections 21(3), 21B (3) and 22] PART I PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE (5) fails to disclosure a material fact known to him in a cost or pricing statement, which is not disclosed in a cost or pricing statement but disclosure of which is necessary in making such statement where he is concerned with such statement in a professional capacity; (6) fails to report a materials mis-statement known to him to appear in a cost or pricing statement with which he is concerned in a professional capacity, (7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties; 8. Here Reema Mehta has signed stating her independent Auditors Report and given false declaration as she was not independent as on date of signing. The said account was also signed by Mr. Mihir who knew the fact that she was not independent. 9. Also the said act of Auditor and Management Committee of Baroda

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Chapter of cost Accountants has made the main Accounts of Institute fake forged and bogus as Main Accounts of Institute has consolidated Chapter Accounts. **It is such a shame that the Institute which is issuing Accounting Standards and is a pillar of Accounting Profession in India, Their one of the chapters is doing Accounting Frauds and making bogus accounts and misusing public money for benefiting their relatives and partners. Here Mr. Mihir Vyas has intentionally hired Mrs Reema Mehta his partner so that he can get it through.**

10. Hence I request Disciplinary Committee to take suitable action on Management Committee Members of Baroda Chapter of Cost Accountants and Auditor of Baroda Chapter of Cost Accountants for Fraudulent, forged and mala fide intended accounts & misuse of public money.

COMPLAINT NO 3

PAYMENT TO NIRDESH EDUCATION RESEARCH PVT LTD

BARODA CHAPTER HAS MADE PAYMENT OF Rs. 15000 to M/S NIRDESH EDUCATION RESEARCH PVT LTD https://nirdeshika.net/?page id=B7 which belongs to Mr S N Diwanji, Mr Mihir Vyas and Mr A G Dalwadi.

As per the website Mr S N Diwanji, Mr Mihir Vyas and Mr A G Dalwadi, are members of many committees of M/S Nirdesh Education Research Pvt Ltd (attached)

Mr Mihir Vyas also partner to S N Diwanji (M-753) in firms M/S Diwanji & Associates and Diwanji & Co also branch incharge of M/S Dalwadi & Associates.

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		The common partners and branch incharge clearly satisfies the criteria of "Near Relationship" & conflict of interest circular issued by CENTRAL VIGILANCE COMMISION dated 24.11.2011 (circular attached) As certified by Mr Ashwin G Dalwadi under his letter head that Dalwadi & Associates & Diwanji & Co. are jointly handling many audits and has business relations with Diwanji & Co in which Mr Mihir Vyas is also partner. As per office order dated 16.06.2017 as decided in 304th meeting on 17-18th May 2017, GFR AND CVC guidelines shall be followed for all procurement for all offices of the Institute including chapters (Circular attached). In the said circular it is clearly mentioned that Consultants (including their experts and sub consultants) that have a close business or family relationship with professional staff of employer (or of project implementing agency) who are directly or indirectly involved in any part of (i) Preparation of TOR of assignment (ii) Selection of process of the contract (iii) supervision of such contract may not be awarded a contract unless the conflict is stemming from this relationship has been resolved in a manner acceptable to the employer throughout the selection process and the execution of the contract. Mr. Mihir Vyas then secretary of Baroda chapter of Cost Accountants was part of meeting held of 20.02.2020 and decided the budget for website expenses as Rs 5000 per seminar and approved it. Also Mr Mihir Vyas was part of committee

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		member for tendering/negotiation for the said work. I fail to understand why Baroda chapter did not got any other vendor for the said works except the party in which partners/business associates of Mr Mihir Vyas has stake. Why Mr Mihir Vyas has intentionally given work order to the said party in which he himself is involved. Why Mr Mihir Vyas has fraudulent given work order so that he himself can benefit from the said misuse of public money. Why no related party transactions were recorded in audited accounts which clearly show transactions between Mr Mihir Vyas and his firm WHICH HE HIMSELF HIS PARTNER MR DIWANJI AND BUSINESS ASSOCIATE MR A G DALWADI IS INVOLVED. Hence the said has attracted following PENAL clause of ICWAI. 1. It has brought disrepute to the Institute by attracting clause 2, of Part IV of PART I PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE by Reema Mehta. 2. Here the whole Management Committee including Chairman Vice Chairman, Treasure, Secretary and Joint secretary of then Baroda Chapter of Cost Accountants has fraudulently adopted audited accounts of Baroda Chapter for hiding their frauds and fake accounting including forged and fake vouchers. 3. Mr Mihir Vyas has attracted provisions of THE SECOND SCHEDULE [SEE SECTIONS 21(3), 21b (3) AND 22] PART I PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN

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		PRACTICE clause no 5) fails to disclose a material fact known to him in a cost or pricing statement, which is not disclosed in a cost of pricing statement but disclosure of which is necessary in making such statement where he is concerned with such statement in a professional capacity, by not disclosing her relation with AUDITEE. 4. Mr Mihir Vyas has attracted provisions of THE SECOND SCHEDULE [See section 21(3), 21B (3) and 22] Part 1 PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE clause no (7) does not exercise due diligence or is grossly negligent in the conduct of his professional duties by not disclosing her relation with AUDITTE. 5. As accounts of Baroda Chapter of Cost Accountants are consolidated at WIRC and Central audited accounts, the said act of Mr Mihir Vyas Secretary also attracted provision of PART II PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY (3) 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; 6. MR MIHIR VYAS also attracts THE SECOND SCHEDULE [See sections 21(3), 21B (3) and 22] PART 1 PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOPUNTANTS IN PRACTICE (5)

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		fails to disclose a material fact known to him in a cost or pricing statement, which is not disclosed in a cost or pricing statement but disclosure of which is necessary in making such statement where he is concerned with such statement in a professional capacity, (6) fails to report a material mis-statement known to him to appear in a cost of pricing statement with which he is concerned in a professional capacity, (7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties
6	Particulars of evidence(s) adduced in support of the allegation(s) made	1. Audited Accounts of Baroda Chapter of Cost Accountants duly showing website and application fees as revenue expense instead of capital expense. 2. Firm details of M/S Diwanji & as on date of signing of Audit Report by Reema Ben Niren Kumar Mehta duly showing names of Mr Mihir Vyas and Mrs Amruta Vyas who are Secretary and Joint Secretary having substantial interest in Baroda Chapter of Cost Accountants. 3. Proof of Father and Son relation between Lead Partner of M/S Diwanji & Associates and then Chairman of Baroda Chapter of Cost Accountants. 4. Proof relation of Mr Mihir Vyas with Dalwadi & Associates 5. CVC circular dated 24.06.2011 6. Nirdesh education & research foundation website image which shows Mr Mihir Vyas , Mr S N Diwanji and Mr Dalwadi as member of committee of NIRDESH EDUCATION AND RESEARCH FOUNDATION. 7. RELEVEANT MANAGEMENT COMMITTEE MINUTES OF MEETING OF BARODA CHAPTER

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		OF COST ACCOUNTANTS 8. DOCUMENTS OF FAKE TENDERING IN THE MATTER OF M/S MICROVISTA TECHNOLOGIES PVT LTD 9. ORDER IN THE MATTER OF SHRI AB NAWAL FOR SIMILAR PUNITIVE ACTION AGAINST MR MIHIR VYAS. 10. OTHER RELEVANT DOCUMENTS.
	Name(s) of person who have knowledge of the facts of the case.	1. Yashodar Thakar (M-9688) 2. Shashikant J Joshi (M-13040) (The above are Creditworthy Committee Members of Baroda Chapter of Cost Accountants since last 20+ years.)

3. 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, Complaint No. Com/21-CA(115)/2022.
4. A copy of the complaint dated 07th August, 2022 together with the annexure totaling 116 pages was sent to the respondent vide letter No. G/DD/Com-C-115/(M-31564)01/08/2022 dated 30th August 2022 in terms of sub-rule (3) of Rule 8 of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules. 2007 with a request to send the response through a written statement in your defence within 21 days from the date of service of this letter.
5. The respondent has submitted his written statement vide letter dated 29th October, 2022(served on 1st November, 2022) consisting of 38 pages including Annexures. The same is reproduced here below:

Quote

29th October 2022
By Email and Speed Post

Board of Discipline

To,
The Director Discipline,
Institute of Cost Accountants of India
12, Sudder Street,
Kolkata -700 016
Dear Sir,

SUB: Complaint No. Com/21-CA (115)/2022 – CMA Mukesh B KAKA (M/13599) V/s CMA MIHIR Vyas (M/31564)

REF: Your Office Letter: G/DD/Com-CA(M-31564)/01/08/2022 dated 30-08-2022

1.0 This has reference to above referred letter received by us on 20th October, 2022 and at the same time I am grateful to you for providing me an extension for submitting this reply

2.0 At the outset, I vehemently deny all allegations believed against me by M B Kaka through the complaint. This complaint is purely based on political vendetta and revenge against me because of his two consecutive defeats in elections of Management Committee of Baroda Chapter and Election to Regional Council in 2019.

3.0 All allegations deserve no merit. M B kaka and his colleagues are threatening us since long, through telephone calls, WhatsApp Messages to us - my partners, Colleagues, and our employees including Managing Committee Members.

4.0 I would like place on record the facts behind such a frivolous and scurrilous complaint which are as under:

4.1 In last week of November 2020, we along with other practicing members of Vadodara had received a mail with subject: "Quotation for Appointment of Cost Auditors For 2020-21" and inviting us to provide details and fees etc. of our clients from one company M/s Neogen Chemicals Limited, Karakhadi.

Subsequently, it was found that the said mail was a fake mail. Hence, we filed a complaint with cyber-crime portal of Government against unknown persons. Police investigated the mater and found that the said fake mail was originated from the office of CMA RK Patel (M/14115).Police had arrested CMA Bhavin R Patel (M/31969) (S/o RK Patel) on 12-10-2021 and he has been released on bail. A copy of charge sheet (CC No: 2613/2022 dated 02-02-2022) is attached vide Annexure-I

4.2 Thereafter, CMA M B Kaka and his colleagues had started harassing us through WhatsApp messages and/or phone to Mr. Diwanji, Me and my partners and our Colleagues. A copy of the screenshots of WhatsApp image is attached herewith vide Annexure-II.

4.3 CMA RK Patel (M-14115), CMA M B Kaka (M -13599) and CMA Y S Thakar (M9688) have filed around 12 RTI applications and around 07 Disciplinary Complaints against our colleagues till date. Even one

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disciplinary complaint with CA institute against one lady who was associated with our firm. Their motive is to take revenge against us only.

4.4 Baroda chapter of the Institute was facing problems of frequent RTIs pertaining to Management Committee's decisions. Upon investigation of the issues, it was noticed that two employees of the chapter were passing information of our minutes, documents to certain persons and on that basis, RTIs were being received. Employees have admitted in their statement before notary that they were providing such sensitive information of the chapter to CMA YS Thakar(M/9688).

5.0 Before responding to the complaint point-by-point I would like to share my comments about the manner in which the complaint is made:

5.1 The complainant has filed a voluminous complaint containing about 118 pages without numbering of pages.

5.2 The complainant has not given any cross references to his compliant and attachment, if any, in support of his point.

5.3 The complaint is in three parts in which the complainant has repeated many points.

5.4 Careful reading indicates that he has simply copied and pasted the complaints made by him and/or his colleagues. For example, in his complaint part -II, he has tried to level allegations against me but the language of the complaint is referring to auditor Ms Reema Mehta and not me or my firm. This is a copy of Complaint no Com/21-CA(103)2021. Here, he has not taken any pain to revise the language of the complaint. This is sufficient to prove about his malafide intention.

5.5 The complainant has attached certain attachments twice! For Example:

5.5.1 CVC's Circular No: 08/06/11 dated 24th June, 2011

5.5.2 CVC's Circular No: 01/01/17dated 23rd January, 2017

6.0 All allegations levelled by the complainant are reckless. The complaint should have been rejected ab-initio by the Director Discipline. Since, the complaint has been admitted and sent to me, I have preferred to provide you my point-to-point defence for each part of Complaint in next para:

7.0 COMPLAINT PART -I - AWARD OF WORK TO M/S MICROVISTA TECHNOLOGIES PVT LTD.

7.1 At the outset, kindly note that award of work was not given by me. I was not involved in any of the processes of awarding work to M/s Microvista Technologies Pvt. Ltd. on account covid 19 pandemics as my aged mother and one year old son needed highest attention.

7.2 Limited Tender - Market Inquiry within powers of Managing Committee was raised by the chapter and laid down process which was being followed since long even by preceding Managing Committees.

7.3 At point no 2 of FORM-I he has mentioned that I am a branch-in-charge of M/s Dalwadi & Associates, Cost Accountants.

7.4 It may be noted that as per the Regulation - 106(2) in case of a branch of a firm a practicing member shall be a branch-in-charge. To help CMA AG Dalwadi to open a branch a Baroda, I have given him my consent to act as a Branch-incharge. It may be noted that I was not supervising or assisting him in any of their assignment.
I am not any way related with M/s Dalwadi & Associates.

7.5 As far as certification by CMA Ashwin Dalwadi about the Association with Diwanji & Co is concerned, it shall be noted that the said association is within the networking of firm rules laid down by the Institute. Both firms are leveraging their manpower and resources on professional basis only. This has nothing to do with sharing fees, commission etc. Hence, I don't have any relationship with CMA Ashwin Dalwadi or his firm. It may be noted that there is no such attachment has been provided by the complainant. This proves that the complainant is very unprofessional in levelling allegations against me.

7.6 Microvista Technologies Pvt Ltd is a distinct legal entity. As per the documents provided by the complainant, there is none of the directors - CMA A G Dalwadi or others are shown as KMPs in MGT-7. This clearly indicates that they are nonexecutive directors as per the Companies Act, 2013 and company is run by distinct professionals / employees.

7.7 Though the approval for development of website and mobile applications was given by the Managing Committee in Feb 2020, urgency for this was felt during covid epidemic and lockdown. The limited tender market inquiry was raised by the chapter during covid pandemic in May/June-2020

7.8 In the Managing Committee Meeting dated 20-02-2020, the decision was taken for development of website was taken. It was not with respect to any party. The allegation is baseless and frivolous.

7.9 Regarding end date of tender, liquidated damages etc. It shall be noted that it was a period of Covid epidemic. Offices were not working regularly. All communications were made through phones and/or virtual meetings only. Under the circumstances, immediate launch of website and mobile applications had become inevitable. I request the Directorate Discipline to ignore such formality related lapses due to then prevailing extra ordinary situations.

7.10 No order was given to Microvista Technologies Pvt Ltd by me. It was given by the one of the Managing Committee Member only. No payment was approved by me.

7.11 Thus, all nine allegations, in part I of the complaint, levelled against me are baseless and are on account of purely political vendetta only. My response to clause-wise allegations is as under:

Board of Discipline

7.11.1 THE FIRST SCHEDULE: Part IV: OTHER MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY - Clause (2) which reads: "in the opinion of the Council he brings disrepute to the profession or the institute an a result of his action whether or not related to his professional work"

7.11.2 Kindly note that this matter is raised by the complainant and not by the council. Hence, this clause is not attracted.

7.12 THE SECOND SCHEDULE : Part II : PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY - Clause (1) which reads:

There is no violation of any of the section of Act, Rule, guidelines, of the Institute by me. The Managing Committee of the chapter has taken actions and/or carried out the process of tendering and other formalities for which I alone can't be held responsible. There could have been some lapses in the process. But one should remember that this has happened during Covid epidemic era.

7.13 THE SECOND SCHEDULE : Part | : PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY - Clause (5), (6) and (7) which reads:

"(5) fails to disclose a material fact known to him in a cost or pricing statement, which is not disclosed in a cost or pricing statement but disclosure of which is necessary in making such statement where he is concerned with such statement in a professional capacity;"

"(6) fails to report a material mis-statement. known to him to appear in a cost or pricing statement with which he is concerned in a professional capacity;"

"(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;"

These clauses are absolutely irrelevant as they speak about the attestation of any cost/ Pricing statement and exercising of professional diligence. This nothing but a imaginative and witch-hunt process adopted by the complainant. This shows his grossly negligent professionalism on his part while levelling serious allegations against me.

7.14 VIOLATION OF CHAPTER BYE-LAWS: – 25 which reads:

"(1) There shall be established fund management........

Provided that funds of the chapter……………..

Provided that no funds of the chapter shall be applied directly or indirectly for payment of members of management committee of chapters except for reimbursing for any expense incurred by them for business of chapter

It may be noted that no payment/ reimbursement has been made to me or any of the Managing committee member of the chapter. The website and

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mobile applications are working effectively. Thorough website and Mobile Apps regular messages are being pushed to members and students. So far, 300+ persons have downloaded the mobile apps.

7.15 ABOUT THE CASE LAWS ATTACHED TO THE COMPLAINT:

The complainant has two cases in support of his arguments which are irrelevant on following grounds:

1. Complaint no: COM/21-CA (50) 2017 Shri Ashish Thatte vs Shri Ashok B Naval.

This case pertains to matter of simultaneously holding COP and holding an employment as an Executive Director in Panchavati Business Solutions LLP.

I am not holding any employment. Thus, it is irrelevant. It seems that the complainant is trying to confuse and mis-lead the disciplinary mechanism.

2. Complaint no: COM/21-CA (33) 2015 Shri Amit Shahane vs Ashok B Naval

This case pertains to matter of payments of Rs. 1.04 cr. to Mrs. Chaitra Ashok Nawal's proprietary firm- M/s Infosoft systems. While Shri Ashok Nawal was a managing committee member of Nasik-Ojhar Chapter of the Institute. Mr Ashok Nawal has singed some of the invoices raised by M/s Infosoft Systems to Nasik-Ojhar Chapter.

In instant case, I am not related with Microvista Technologies Pvt Ltd. Hence, both the case laws referred by the complainant are irrelevant.

8.0 Complaint Part - II - ADOPTION OF FRAUDULENT ACCOUNTS OF BARODA CHAPTER OF COST ACCOUNTANTS

8.1 Qualified Accounts of the Institute: This part of complaint is a baseless and the complainant has levelled irresponsible charges against me. Here, the complainant has extended his whims and his vivid imagination that according to him the accounts of Institute are qualified because of me!!!!

8.2 The complainant is that auditors of the institute have qualified accounts as mentioned below:

"As per Audited Accounts published by institute it is qualified by auditor that a) We did not audit the financial statements of four Regional Councils and ninety-one Chapters whose financial statements reflect total assets of Rs. 184,75.69,767/- and total revenue of Rs.6,14,08 770 as considered in the financial statements. The financial statements of these Regional Councils have been audited by other auditors, appointed by the respective Regional Councils and the financial statements of majority of these Chapters have been audited by Cost Accountants appointed by Governing Bodies of the Chapters in terms of regulation 133 of the Cost and Works Accountants Act. 1959, and Clause 26 of the Chapter Bye-laws of the Institute, whose reports have been furnished to us by the Management and our opinion on the financial statements, in so far as it relates to the amounts and disclosures included in respect of these Regional Councils and Chapters and our report in terms of sub section (3) and (11) of Section 143 of the Act, in so far as it relates to the amounts

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and disclosures included in respect of these aforesaid Councils and Chapters is based solely on the reports of the other auditors and Cost Accountants respectively"
In fact, this is not the qualification. It is a disclosure made by the auditors that they have relied upon that the chapters' accounts have been audited by professional cost accountants by Cost Accountants appointed by Governing Bodies of the Chapters in terms of regulation 133 of the Cost and Works Accountants Act. 1959.
Thus, this complaint is a baseless, a reckless and with his clear motive to malign my and my firm's image in the society. The complainant, who is PhD and a professional cost accountant, has levelled irresponsible charges against me, my firm and against the Institute also. The complainant has extended his whims and his vivid imagination that according to him the accounts of Institute are qualified because of me!!!!

8.3 The complainant claims that accounts are fraud and having bogus vouchers. He has attached comments of YS Thaker.
It is pertinent to note that Y S Thakar has mailed the referred quires to the chapter and some office bearers. It was not marked to the complainant who has attached the said mail after removing headers and other data. This clearly indicates the nexus of a group of persons as explained in earlier para 4.0

Further, It may be noted that YS Thakar had sought clarification on certain vouchers and he had visited the Chapter office on 21st May, 2021 for personal inspection of these voucher to satisfy himself about the authenticity and correctness of the said vouchers. Thereafter, he has never challenged about the correctness of those vouchers.
At 53rd AGM of the Baroda Chapter on 31st May, 2021 on online mode due to the Covid pandemic - 2nd wave. The AGM was attended by 53 members. At the time, when Managing Committee Reports, Audited Accounts along with Audit Report was placed before the members present in AGM after presentation by chairman, few members had left the meeting may be due to connectivity issues or did not opt to vote. In case approval & adoption of Managing Committee Report — 2020-2021, CMA M B Kaka had opposed the resolution for approval of Managing Committee Report whereas resolution for Adoption & Approval of Accounts and Approval of Audit Report of Reema Mehta were unanimously passed.

9.0 **Qualified Accounts of the Institute:**

9.1 According to the complainant, the whole Management Committee of the chapter including Chairman Vice Chairman, Treasurer, Secretary and Joint Secretary of then Baroda Chapter of Cost Accountants had fraudulently adopted Audited Accounts of Baroda Chapter for hiding their Frauds and Fake Accounting Including forged and fake vouchers.

9.2 The complainant has raised the issue that Auditor of the Chapter CMA Reema Mehta was a partner of M/s Diwanji & Co., where I, secretary of the chapter, was also a partner and CMA Hardik Diwanji, chairman of the chapter, was son of CMA S V Diwanji a senior partner of the Firm and hence, fake accounts were passed unanimously by the whole Managing Committee of the chapter.

9.3 At the outset, I would like to place on record that the all allegations levelled against us are falls and with a motive to malign me, managing committee, Baroda Chapter and Institute as whole.

9.4 When CMA Reema Mehta was appointed as an auditor, for financial year 2020- 21, of the chapter on 31st May, 2020 at AGM of the Chapter. At that time, she was practicing as 'CMA Reema Mehta & Associates, Cost Accountant,

9.5 Subsequently, she joined M/s Diwanji & Associates as a partner on 05th February, 2021. By that time 7 months of FY 2021-22 were over and she had carried out auditing of accounts as an Auditor of the Chapter. Matter was known to all Managing Committee members and most of the members of Baroda Chapter. No objection was raised by anybody till she completed the audit and submitted her report to the Chapter. The managing committee was of the opinion that at the last moment it may not be appropriate to change the Auditors during the Corona epidemic era.

9.6 The Chapter Chairman CMA Hardik Diwanji had made detailed presentation, at 53rd AGM on 31st May, 2021, covering various facets of activities and achievements during his tenure as a chairman for 2020-21 before placing the agenda of AGM. In the said presentation he had also addressed queries received from members. True copy of the said presentation is attached herewith wide Annexure - III

9.7 One of query was pertaining to Independence of Auditor appointed by Chapter since she is a partner of office bearer of the Committee. CMA Hardik Diwanji had responded this query on slide no 8, which is reproduced on next page:

9.8 Thus, it is a fact that CMA Reema Mehta's association with M/s Diwanji & Associates known to the members and it was clearly open for members to accept or reject her audit report. Thus, if you find me as a guilty, the Disciplinary Directorate shall suo-moto held guilty all members present at AGM.

9.9 The AGM was attended by 53 members. When time of passing of resolution of passing of Audited Accounts was placed before the members, few members had left the meeting or did not opt for vote. The resolution was passed by 43 votes and it was not opposed by anyone. Thus, it was unanimous.

9.10Kindly note that as per the rules and regulations of the Institute, even if, She had joined as a partner with any cost accountants, she was entitled to do her professional activities as an individual or proprietary form.

9.11 Kindly note that the complainant along with his colleague YS Thaker were also present at the said meeting. This clearly indicates that complainant has a mala fide intention to malign my image and his complaint is simply

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politically motivated to defame the current elected members who have come to power after defeating earlier team which was ruling the chapter since many years.

10.0 **Thus, all, so called, ten allegations made by the complainant in part II of the complaint, levelled against me are baseless and are on account of purely political vendetta only. My response to clause-wise allegations is as under:**

10.1 Allegation - 1 read:

"It has brought disrepute to the Institute by attracting clause 2 of Part IV of PART 1 PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE by Reema Mehta."

Kindly note that this allegation is not against me or my firm. Hence, complaint shall be quashed ab-initio.

Further, THE FIRST SCHEDULE : Part IV: OTHER MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY - Clause (2) which reads:

"In the opinion of the Council he brings disrepute to the profession or the institute an a result of his action whether or not related to his professional work"

Here also since this matter is raised by the complainant and not by the council. Hence, this clause is not attracted.

10.2 Allegation - 2 reads:

"Here, whole Management Committee including Chairman Vice Chairman, Treasurer Secretary and Joint Secretary of then Baroda Chapter of Cost Accountants has fraudulently adopted Audited Accounts of Baroda Chapter for hiding their frauds and Fake Accounting including forged and fake vouchers."

This is an example of scurrilous and malicious attempt to tarnish the image of all Managing Committee members of Baroda Chapter. Here, the complainant has a complaint against the whole Managing committee of the chapter. He has not mentioned names of any of the committee members in para -2 of Form-I. Hence, this allegation needs to be ignored. This kind of allegation proves his vindictive mind.

I have already explained facts in earlier para and I deny such allegations against me/my firm Diwanji & Associates.

10.3 Allegation – 3 reads:

"Mr Mihir Vyas has attracted provisions of THE SECOND SCHEDULE [See sections 21(3), 218 (3) and 22] PART 1 PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE clause no 5) fails to disclose a material fact known to him in a cost or pricing statement, which is not disclosed in a cost or pricing statement but disclosure of which is necessary in making such statement where he is concerned with such statement in a professional capacity; by

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not disclosing her relation with AUDITEE."

The said clause 5 reads:

"Fails to disclose a material fact known to him in a cost or pricing statement, which is not disclosed in a cost or pricing statement but disclosure of which is necessary in making such statement where he is concerned with such statement in a professional capacity"

At this stage, I would like to place on records that with malafide intentions, the complainant has made disciplinary complaint against Ms. Reema Mehta also. He has simply without application of mind, pasted the said complaint against me without any editing. He being a professional cost accountant, Law Graduate and PhD, such unprofessional approach and attitude should not have been tolerated by the Directorate.

The compliant is either confused or trying to mislead the directorate. The wording of complaint -"........ by not disclosing her relation with AUDITEE" This clearly shows that the complaint is not aware that who is an Auditor and who is an Auditee. The complainant has alleged that Auditor - Ms Reema has not disclosed her relations to the Managing Committee - Auditee.

Further, this clause deals with the professional misconduct by a practicing cost accountant who is signing cost or pricing statement. This clause is not applicable to me in the instant matter. Hence, the allegation is reckless and void ab-initio.

10.4 The allegation-4 reads:

"Mr. Mihir Vyas, has attracted provisions of THE SECOND SCHEDULE (See sections 21(3), 218 (3) and 22] PART I PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE clause no (7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties by not disclosing her relation with AUDITEE"

Kindly refer to my response to foregoing allegation - 3. I am on side of Auditee not an auditor. The question of exercising due diligence does not arise on my part.

The complainant has made this allegation, without any application of mind, by cut & paste method form a dissonancy complaint against Ms Reema Mehta without any editing. He being a professional cost accountant, Law Graduate and PhD, such unprofessional approach and attitude should not have been tolerated by the Directorate.

This proves that the complaint is frivolous and reckless and is void ab initio.

10.5 The allegation-5 reads:

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"MR MIHIR VYAS IS well educated being Cost Accountants cannot refrain from the fact that fraudulent and Related Auditor audited accounts has been approved by Baroda Chapter of Cost Accountants & cannot give excuse that at the time of appointment Reema Ben Niren Kumar Mehta was not partner of Diwan & Associates and only at the time of Signing of Audit Report she was partner of Diwan & Associates which i material dates viz 31.03.2021 and 15.05.2021 of singing of Audit Report. The whole Act of Fraudulent Accounts is done to Favour M/s Diwanji & Associates by Chairman Hardik Dewan who is son of Sr Partner S N Diwan & His partners Mr Mihir Vyas and Amruta Vyas"

The compliant is either confused or trying to mislead the directorate. The wording clearly show that the Auditor has not disclosed her relations to the Managing Committee (i.e. Auditee)

At this stage, I would like to place on records that with malafide intentions, the complainant has made disciplinary complaint against Ms. Reema Mehta also. He has simply without application of mind, pasted the said complaint against me without any editing. He being a professional cost accountant, Law Graduate and PhD, such unprofessional approach and attitude should not have been tolerated by the Directorate.

This proves that the complaint is frivolous and reckless and is void ab-initio.

10.6 The allegation- 6 reads:

As the Accounts of Baroda Chapter of Cost Accountants are consolidated at WIRC and Central Audited Accounts the said act of Mr. Mihir Vyas which is secretary also has attracted provisions of PART-II THE PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY (3) 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 Appellate Authority knowing them to be false:"

FY 2020-21 was a Year of Covid 19 pandemic. On account of Lockdowns majority of activities of all organizations were affected badly. In the AGM chapter chairman has explained and clarified the issues raised by members with detailed power point presentation. It was very well informed to the Members present that at any stage there in violation of Chapter bye-laws in appointment and/or reporting authority of Auditors. Thereafter, only Audit report was taken on records unanimously at the AGM.

Thus, there is no violation of clause (3) of Part-II of the second schedule. This proves that the complaint is frivolous and reckless and is void abinitio.

10.7 Allegation 7 reads:

"The said act of auditor and Management Committee of Baroda Chapter also attracts THE SECOND SCHEDULE [See sections 21(3), 21B (3) and 22] PART 1 PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE (5) fails to disclose a material fact known to him in a cost or pricing statement, which is not disclosed in a cost or pricing statement but disclosure of which is necessary in making such statement where he is concerned with such statement in a professional capacity; (6) fails to report e material misstatement known to him to appear in a cost or pricing statement with which he is concerned in a professional capacity: (7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties"

Interestingly this allegation is not against me. It is made against the auditor and Managing committee. This contravenes the requirements of FORM-I. Further, I have not signed any Cost or pricing statement which the complainant is trying to refer. Thus, complaint is frivolous and reckless.

10.8 Allegation -8 reads:

"Here Reema Mehta has signed stating her independent Auditors Report and given false declaration as she was not independent as on date of signing. The said accounts was also signed by Mr Mihir, who was knowing the fact that she was not independent."

I have already denied this allegation vide para 9 of this defence statement.

10.9 Allegation 9 reads:

"Also the said act of Auditor and Management Committee of Baroda Chapter of Cost Accountants has made the Main Accounts of Institute fake forged and bogus as Main Accounts of institute has consolidated Chapter Accounts, It is such a shame that the Institute which is issuing Accounting Standards and is a pillar of Accounting Profession in India, Their one of the chapters is doing Accounting Frauds and making bogus accounts and misusing public money for benefiting their relatives and partners. HERE Mr Mihir Vyas has intentionally hired Mrs Reema Mehta his partner so that he can get his bogus fraudulent and fake invoices and vouchers audited and get it through."

This allegation is not against me. It is made against the auditor and Managing committee. This contravenes the requirements of FORM-I. Further, I have not signed any Cost or pricing statement which the complainant is trying to refer. Further, the complainant is trying to convey that the Institute's accounts are wrong. Thus, complaint is frivolous and reckless.

10.10 Allegation 10 reads:

"Hence I. request Disciplinary Committee to take suitable action on Management Committee Members of Baroda Chapter of Cost Accountants

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and Auditor of Baroda, Chapter of Cost Accountants for Fraudulent, forged and mala fide intended accounts & Misuse of Public money"

Once again, this allegation is not against me. It is made against the auditor and Managing committee. This contravenes the requirements of FORM-I. Further, I have not signed any Cost or pricing statement which the complainant is trying to refer. Further, the complainant is trying to convey that the Institute's accounts are wrong. Thus, complaint is frivolous and reckless.

11.0 Complaint Part - III - PAYMENT TO NIRDESH EDUCATION RESEARCH PVT LTD

11.1 The complaint reads:

BARODA CHAPTER HAS MADE PAYMENT OF RS. 15000 TO M/S NIRDESH EDUCATION RESEARCH PVT LTD [https://nirdeshi.net/?page_id=87] which belongs to Mr S N Diwanji, Mr Mihir Vyas and Mr A G Dalwadi.

As per the website Mr S N Diwanji. Mr Mihir Vyas and Mr A G Dalwadi are members of many committees of M/S NIRDESH EDUCATION RESEARCH PVT LTD (attached)

Mr Mihir Vyas is also partner to S n Diwanji (M-753) n firms M/s Diwanji & Associates and Diwanji & Co Also Branch-in-charge of M/s Dalwadi & Associates

The common partners and branch-in-charge clearly satisfies the criteria of "Near Relationship & conflict of interest circular issued by CENTRAL VIGILANCE COMMISION dated 24.11.2011.) (Circular attached)

As certified by Mr Ashwin G Dalwadi under his letter head that Dalwadi & Associates & Diwanji & Co are jointly handling many audits and has business relations with Diwanji & co in which Mr Mihir Vyas is also partner.

As per office order dated 16.06.2017 as decided in 304 Meeting on 17-18 May 2017, GFR AND CVC guidelines shall be followed for all procurement for all offices of the institute including chapters (Circular attached)

In the said circular it is clearly mentioned that

Consultants (including their experts and sub consultants) that have a close business or family relationship with professional stall employer for of project implementing agency) who are directly or indirectly involved in any part of Preparation of TOR of assignment (1) Selection of process of the contract (supervision of such contract may not be awarded a contract unless the conflict is stemming from this relationship has been resolved in a manner acceptable to the employer throughout the selection process and the execution of the contract.

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Mr Mihir Vyas then secretary of Baroda chapter of Cost Accountants, was part of meeting held of 20.02.2020 and decided the budget for website and mobile App expenses as Rs. 5000 per seminar and approved it.
Also, Mr Mihir Vyas was part of committee member for tendering/negotiation for the said work. I fail to understand why Baroda chapter did not have any other vendor for the said works except the party in which partners/business associates of Mr Mihir Vyas has stake. Why Me Mihir Vyas has intentionally given work order to the said party in which he himself is involved
Why Mr Mihir Vyas has fraudulent given work order so that he himself can benefit from the said misuse of public money
Why no related party transactions were recorded in audited accounts which clearly shows transactions between Mr Mihir Vyas and his firm NIRDESH EDUCATION RESEARCH PVT LTD IN WHICH HE HIMSLEF, HIS PARTNER MR DIWANJI AND BUSINESS ASSOCIATE MR A G DALWADI 15 INVOLVED."

11.2 In response to the above complaint, the factual position is as under:

11.2.1 First of all, the Chapter has carried out career awareness programs with Nirdesh Education Research Foundation (Hereinafter referred to as Nirdesh) which is a proprietary firm of Ms. N H Desai and not with Nirdesh Education Research Pvt Ltd.

11.2.2 The Managing committee of Baroda chapter had passed a resolution to appoint third party agency for career seminars with an approved cost of Rs 5,000/- seminar in its meeting dated 19th September, 2019.

11.2.3 Nirdesh was conducting career orientation programs with Baroda Chapter of Cost Accountants since 2016-17. It has conducted career awareness seminars on 14th July, 2016 and 11th January, 2018. In addition to this, Baroda Chapter had also participated in Career Expo organized by Nirdesh during 6th to 9th May, 2018. All these programs were conducted by previous Managing Committee.

11.2.4 The Managing committee of Baroda chapter had passed a resolution to appoint third party agency for career seminars with an approved cost of Rs 5,000/-seminar in its meeting dated 19th September, 2019.

11.2.5 The new managing committee, based on the reports appeared in Bulletin of WIRC and Annual reports of Baroda Chapter about the earlier programs by Nirdesh decided to go with Nirdesh.

11.2.6 Details of Payments made to Nirdesh are as under:

Sr. No	Date	Ch No	Amount	Event	Reimbursement Recd from HQ	Date of Receipt	Net Expense
1	11-09-2019	76033	2,500.00	Career fair at Jay Jalaram International School, Wanakhobi, TPS on			2,500.00
2	20-09-2019	76035	2,500.00	Two seminar at Anand on 14-09-2019	2,500.00	06-11-2019	
3	04-12-2019	77425	1,500.00	Seminar at GERMS on 30-11-2019			1,500.00
4	17-01-2020	77435	5,000.00	Seminar at Kelavani Mandal Group of Colleges, Dabhoi on 21-01-2020	2,500.00	19-02-2020	2,500.00
5	10-02-2020	76068	3,500.00	Seminar at Mother School, Padara on 226-01-2020	2,500.00	21-02-2020	1,000.00
			15,000.00		**7,500.00**		**7,500.00**

11.2.7 Total amount paid to Nirdesh is Rs 15,000/- for 5 programs. It is important to note that the Managing Committee or CMA Mihir Vyas were interested in this payment they could have paid Rs. 5,000/- per program as approved by the MCM dated 19-09-2019.

11.2.8 Total amount paid to Nirdesh is Rs 15,000/- for 5 programs. It is important to note that the Managing Committee or CMA Mihir Vyas were interested in this payment they could have paid Rs. 5,000/- per program as approved by the MCM dated 19-09-2019.

11.2.9 It may be noted that even after 2020 we have continued these Career awareness programs on online mode through a separate agency as Nirdesh was not offering online programs and for the same also the similar payment criteria was being used. Hence, I would like to highlight that the said transactions done with Nirdesh Education is at arm's length only and there is no merit in this allegation.

Thanking you in anticipation
Sincerely

Institute of Cost Accountants of India
Board of Discipline

CMA Mihir Vyas
M.No. 31564
C-1, Rushabh Tenements,
Manjalpur, Vadodara,
Gujarat -390011

Unquote

6. The Respondent, vide additional written submissions dated 04th January 2023, inter alia submitted that a complaint on substantially similar allegations had earlier been addressed to the Chief Vigilance Commissioner, Government of India, the Hon'ble Finance Minister, and the Ministry of Corporate Affairs (MCA) against the members of the Managing Committee of the Baroda Chapter, including the Respondent, as well as the then Auditor of the Chapter. It was further submitted that the Ministry of Corporate Affairs, being the administrative Ministry concerned with the affairs of the Institute, had directed that the matter be examined by the Institute. Pursuant thereto, the then President of the Institute appointed Hon'ble Justice Ashoke Kumar Dasadhikari (Retd.), Former Judge of the High Court at Calcutta, as an Independent Inquiry Officer to investigate the allegations. The Inquiry Officer was requested to examine the complaint, the applicable statutory provisions, the relevant Regulations, and all supporting records and documents, and to determine whether any contravention of statutory provisions, corruption, malpractice, or other irregularity warranting further action by the Institute was made out. For the sake of completeness and convenience, the relevant findings of the Inquiry Report are reproduced herein below.

Investigation Report of Justice Ashoke Kr. Dasadhikari (Retd.)

Justice Ashoke Kr. Dasadhikari (Retd.)

Former Judge, High Court at Calcutta

29B Nanda Mullick Lane, Kolkata : 700006

Date: 25th November, 2022

To
The President
The Institute of Cost Accountants of India
CMA Bhawan, 12, Sudder Street
Kolkata – 700016.

Dear Sir,

Please find herewith the response of the undersigned to your Memo No G/142/11/2022(1) dated 5th November, 2022. The signed document attached hereto is self-explanatory.

With regards,

Justice Ashoke Kr. Dasadhikari (Retd.)
Former Judge, High Court at Calcutta

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Nikita Niwas

Cost Accountants of India Board of Discipline

Justice Ashoke Kr. Dasadhikari (Retd.)
Former Judge, High Court at Calcutta
29B Nanda Mullick Lane, Kolkata : 700006

The instant mater has been referred for my consideration by the President of the Institute of Cost Accountants of India vide Memo No. G/142/11/2022(1) dated 5th November, 2022. The President of the Institute has forwarded a copy of the complaint lodged by one Sri Mohan Lodhi on 18th May, 2022. Originally the said complaint was lodged with the Ministry of Corporate Affairs, Government of India through its PG Portal and in response thereto vide email dated 20th May, 2022, the Deputy Secretary, Ministry of Corporate Affairs, Government of India, has forwarded the said complaint to the office of the President of the Institute of Cost Accountants of India for appropriate action.

While forwarding the said complaint to the undersigned, the President has requested to "take into account the complaint, the applicable Acts along with Statutes and relevant documents; as to whether there exists any case of contravention of statutes or there exists any case of corruption/malpractice warranting further measures to be taken by the Institute".

Mihir Niwas

Justice Ashoke Kr. Dasadhikari (Retd.)
Former Judge, High Court at Calcutta
29B Nanda Mullick Lane, Kolkata : 700006

Upon receipt of the aforesaid complaint from the President of the Institute, I felt in expedient to call for representation/additional documents (if any) both from the complainant and the accused persons against whom allegations were levelled. Accordingly, notices were sent to Mr. Mohan Lodhi (the complainant), CMA Mihir Vyas, the Secretary of Baroda Chapter at the relevant point of time (Accused), CMA Ashwin G. Dalwadi (Council member of the Institute), CMA Reema Mehta (the Auditor of the Baroda Chapter of the said Institute at the relevant point of time), CMA Hardik Diwanji (Chairman of Baroda Chapter at the relevant point of time), CMA Kartik Vasavada (present Secretary and Vice-Chairman of Baroda Chapter at the relevant point of time), CMA Priyank Vyas (Treasurer of Baroda Chapter at the relevant point of time); asking them to submit their representation/documents before the undersigned, if they wished to do so. As initially no representation was received from anyone, reminder notices were also served upon the aforesaid persons on 22nd November, 2022. By 24th November, 2022; six persons except the complainant Sri Mohan Lodhi submitted their respective representations along with the documents they intended to rely upon. Neither any communication was received from Sri Mohan Lodhi nor was any accommodation prayed for. The original complaint lodged by Sri Mohan Lodhi along with the documents attached therewith are already before me.

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In my considered view, adequate opportunity was granted to Sri Mohan Lodhi to submit his representation. However, no response was ever received from his end. Hence, in my opinion, the principles of fair play and natural justice have been duly adhered to and therefore I proceed to deal with the complaint based upon the available records.

The complaint lodged by Sri Mohan Lodhi is divided in three different issues and the same have been dealt with separately herein under:

1: Regarding awarding of Work Order to M/s. Micro Vista Technologies Pvt. Ltd:

The complainant alleges that the work order of designing of website and mobile applications was awarded by CMA Mihir Vyas, the then Secretary of Baroda Chapter to M/s. Micro Vista. The complainant says that CMA Ashwin G Dalwadi, CMA Malher A Dalwadi and CMA Malav A Dalwadi are Directors of Micro Vista. CMA Mihir Vyas is also Branch Incharge of Dalwadi & Associates, a Cost Accountant firm, in which CMA Ashwin G Dalwadi, CMA Malav A Dalwadi, CMA Malhar A Dalwadi and CMA Haren Bhatt are Partners. The complainant alleges that as there are common persons behind M/s. Micro Vista and Dalwadi & Associates, and CMA Mihir Vyas was also acting as

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Branch In-charge of Dalwadi & Associates, awarding the work order to M/s. Micro Vista was contrary to Guidelines in vogue at the relevant point of time. The complainant further asserts that work was awarded to said M/s. Micro Vista without advertisement in newspaper, Website and Notice Board and CMA Mihir Vyas was part of execution team as well as part of committee member for tendering of such work. Thus, according to the complainant, CMA Mihir Vyas has misused his powers to the benefit of CMA A G Dalwadi and his company M/s. Micro Vista without adhering to proper procedure. The complainant thus alleges contravention of Rules and Regulations of the Institute, specially the provisions regarding professional misconduct in CWA Act, 1959 and provisions of the Chapter Bye-Laws.

Against such complaint, representations were received from CMA Mihir Vyas, CMA A G Dalwadi, CMA Priyank Vyas, CMA Kartik Vaswada and CMA Hardik Diwanji and the same have been taken into record and considered the same.

It is true that in the year 2020, M/s. Micro Vista Technologies Pvt. Ltd. was awarded with the work order issued by the Baroda Chapter for designing of the Chapter's website together with designing mobile application. The website and mobile applications have been designed and there is no allegation

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from any corner regarding efficacy and working of the website as well as of the mobile application. It is also not disputed that CMA A G Dalwadi, CMA Malhar a Dalwadi and CMA Malav A Dalwadi are Directors of the said M/s. Micro Vista Technologies Pvt. Ltd. Their involvement as Partners in Dalwadi & Associates is also not disputed. It is also on record that Mr. Vyas is a Branch In-Charge of the said Firm.

At the relevant point of time of awarding the work order, CMA Hardik Diwanji was the Chairman of Baroda Chapter. It is evident from the Minutes of the Managing Committee Meeting of Baroda Chapter held on 20.02.2020 that the Managing Committee of the Baroda Chapter considered designing a Chapter website and approved Rs. 1,00,000/- to that effect as Budget provision. The Managing Committee, vide resolution of even date authorised the Chairman and Secretary for all activity, decision and all expenses inter-alia and such resolution was unanimous. As per CMA Hardik Diwanji, the then Chairman, in the background of pandemic and the resultant lock-down, the dependency upon information technology was increasing. CMA Mihir Vyas, due to his family issues was unavailable at that time and therefore as the empowered Chairman, Mr. Diwanji entrusted Vice-Chairman Kartik Vasavada and Treasurer Priyank Vyas to go ahead with the process of website development along with the mobile applications. This stand is also supported

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Cost Accountants Board of Discipline Institute of India by Mr. Kartik Vasavada and Priyank Vyas in their respective representations. As it appears from records that it is not Mr. Mihir Vyas but Mr. Kartik Vasavada being the then Vice-Chairman and Mr. Priyank Vyas being the then Treasurer were entrusted by the Chairman and subsequently short listed the appropriate vendors by using relevant references, market survey, Google searches etc. It is also germen to note that M/s. Micro Vista had earlier designed the website of the Western India Regional Council of the Institute and that website is still running successfully. Quotations were received from M/s. Micro Vista, M/s Backyard, M/s. Seawind and M/s. Heli Communication and M/s. Blue Marvel Professionals. Admittedly the quote of M/s. Micro Vista was found lowest. According to the representations, the lowest quote of M/s. Micro Vista backed by their earlier credential in reference to the website of Western India Regional Council were the guiding and deciding factors which ultimately resulted awarding the works to M/s. Micro Vista. In the lock-down situation, the Chapter office was closed and therefore it was impossible to publish any advertisement in office notice board. However, the question of publishing advertisement in the website did not arise as the website itself was not in existence. As per delegation of powers, as received from the Institute, such type of expenditure based on market survey was well within the power of the Managing Committee and the Managing

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Committee empowered the Chairman for such actions. As per the representations from the then office bearers, in the emergent situation of lock-down and considering the utmost necessity of the Website and Mobile applications for communicating with members and students; the Chairman, acting in bonafide, took the steps with the active co-operation of Vice-Chairman and Treasurer. It has also been submitted before me that Mr. Mihir Vyas was not at all associated even with the payment mechanism. The invoices raised by M/s. Micro Vista was checked by the employees of the institute and subsequently sanction for payment was granted by the Treasurer and the concerned invoice is also on record.

Considering the available records, I do not find any arbitrariness/malice or any essence of corruption in the alleged transaction. The pandemic caused by the Covid-19 virus was indeed something unprecedented and the normal functioning of all public organizations came into a halt save and except functioning over the virtual platform. Amidst such emergency, if the then Chairman and the Vice-Chairman and Treasurer have taken steps to expedite the design of the Website and Mobile applications to facilitate communication with its members and students, they should not be blamed. In the absence of any cogent document and reason, I am not inclined to term their actions being illegal or malicious. I also find force in the

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contention of CMA Mihir Vyas and CMA A. G. Dalwadi that CMA Vyas was never a part of the entire exercise and CMA Dalwadi, not being a member of the Baroda Chapter could hardly influence the decision of the Baroda Chapter or its managing committee in any manner whatsoever. The award of the work to M/s. Micro Vista and subsequent payment was also approved in the 53rd AGM of the Baroda Chapter.

The complainant has levelled allegations against CMA Mihir Vyas, however such allegation remained unsubstantiated. Even the complainant failed to provide any proof evincing involvement of CMA Mihir Vyas in the selection or remittance of payment process. I, therefore, arrive at a conclusion that considering the relevant Statutes/Act/Rules/Regulations/Bye Laws/documents before me, CMA Mihir Vyas should not be held guilty with respect to this matter.

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2 : Regarding alleged adoption of fraudulent accounts off Baroda Chapter :

The complainant states that in the audited accounts published by the Institute, the auditor of the Institute of Cost Accountants of India has provided a qualification that the said auditor did not audit the financial statements off 4 Regional Councils and 91 Chapters. The financial statements of those Regional Councils and majority of those Chapters have been audited by Cost Accountants appointed by the respective governing bodies of the Chapters. As per the complainant, CMA Mihir Vyas has intentionally adopted and signed accounts of Baroda Chapter based on fraudulent and fake records. The complainant has relied upon some comments of one committee member of the Baroda Chapter namely Mr. Y S Thakar. The complainant further alleges that the audit of the Baroda Chapter was done by one Mrs. Reema Mehta who was also a partner of M/s Diwanji and Associates whereas Mr Hardik Diwanji, the son of the lead partner of said Diwanji and Associates was the Chairman of Baroda Chapter. Hence as per the complaint, the statute regarding professional misconduct in relation to Cost Accountants in practice has been contravened. As per the complaint, CMA Mihir Vyas has intentionally appointed Mrs. Reema Mehta as auditor with an oblique motive

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so that bogus, fraudulent and fake invoices and vouchers could be audited and approved.

I have gone through the version of the complainant as well as the documents placed with his complaint. It is worthy to be noted that though the complainant has alleged that bogus and fake vouchers were prepared by Mr. Mihir Vyas and were passed by the Auditor, apart from such blanket allegation, no details or example of such alleged bogus vouchers has been placed and there exists not a single scrap of paper which can substantuate his allegation. The complainant is not a member of the Baroda Chapter. He could not have any first hand knowledge regarding this. Despite being provided with adequate opportunity he has chosen not to submit any additional document. His knowledge as well as the veracity of his allegation raised justifiable doubts. In absence of anything specific, I am unable to question an Audited Account specially when the concerned Chapter, its members and the Institute Headquarters did not raise any question of falsification in such accounts. The complainant relied upon a e-mail of CMA Y. S. Thakar regarding the vouchers. In such mail, CMA Thakar called for explanation regarding some vouchers. But, it is to note that subsequently CMA Y. S. Thakar was also present in the AGM, when Audited Accounts were deliberated upon and accepted in the AGM of Baroda Chapter held on 31st May, 2021. He did not raise any objection in

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the AGM. It is also to note that vouchers are not processed singlehandedly by the Secretary of the Chapter. These are also checked by other employees.

I, however, would like to check the role of CMA Mihir Vyas in appointment of Mrs. Reema Mehta as Auditor. The Clause 26(2) of Chapter Bye Laws simply bars appointment of a person as Auditor if he is a member of the Managing Committee. Admittedly, Mrs. Reema Mehta is not a member of the Managing Committee and consequently such bar has no application in her appointment. Moreover, she was appointed in the 52nd AGM held on 30th June 2020 by a collective decision of the members and CMA Mihir Vyas was merely one of the many attendees in such AGM and the decision adopted in such AGM was not taken in his individual capacity. The allegation against him regarding appointment of Mrs. Mehta as Auditor does not hold any water. It is on record that CMA Reema Mehta got associated with M/s. Diwanji and Associates w.e.f. 05/02/2021 i.e. more than 7 months after her appointment as an Auditor of the Chapter. From the representation of the then Chairman, Vice Chairman, Secretary and Treasurer of the Baroda Chapter, I find that the factum of subsequent association of Mrs. Reema Mehta with M/s. Diwanji and Associates was duly disclosed by Mrs. Mehta before the Managing Committee Members and no objection was ever raised regarding her continuation as Auditor. It is also on record that in the 53rd AGM of Baroda

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Chapter, a detailed presentation on the self-same issue was presented by the then Chairman, and the said explanation was accepted in the AGM and the Audit report certified by Mrs. Reema Mehta was also accepted.

I therefore do not find any contravention, irregularity, malpractice regarding this aspect.

3: - Regarding payment made to Nirdesh Education Research Private Limited by the Baroda Chapter-

The complainant alleges that the Baroda Chapter has paid Rs.15,000/- (Rupees fifteen thousand) to Nirdesh Education Research Private Limited whereas Mr. S. N. Diwanji (the complainant has mentioned as CMA S.N. Diwanji but the correct name is CMA S. V. Diwanji) , CMA Mihir Vyas and CMA A. G. Dalwadi are members of several committees of the said M/s. Nirdesh Education Research Private Limited. As per the complainant, as Mr. Mihir Vyas is also a partner of Mr. S. V. Diwanji in M/s. Diwanji & Associates and Diwanji & Co. and branch in-charge of M/s. Dalwbadi and Associates. As per the complainant, the said relationship is a "near relationship" and comes under the purview of conflict of interest as per CVC guidelines dated 24.11.2021. Based on such allegations, the complainant alleges professional

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misconduct against Mr. Mihir Vyas and claims that he is guilty of contravention for professional misconduct as mentioned in Sections 21(3), 21B(3) and 22 of the Cost and Works Accountant Act, 1959 read with the Second Schedule of the Act where professional misconducts have been defined.

I have taken into consideration the complaint and the documents annexed thereto. The representations of CMA Mihir Vyas, along with the representations of CMA Hardik Diwanji, CMA Priyank Vyas have also been considered along with the documents relied upon by them. I find that no payment was ever made to Nirdesh Education Research Private Limited. Payments were rather made to Nirdesh Education and Research Foundation.

CMA Priyank Vyas has stated that the Nirdesh Education and Research Foundation was working with the Baroda Chapter since 2016-2017 and it is not the case that they were inducted afresh under the Managing Committee in which CMA Mihir Vyas, CMA Hardik Diwanji and CMA Priyank Vyas were Secretary, Chairman and Treasurer respectively. From a perusal of the quarterly report of Baroda Chapter for the period 1st April, 2016 to 30th June, 2016, holding of Professional Development Programme with Nirdesh

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Education Research Foundation is evident. Copies of e-mails circulated among the members of the Baroda Chapter are on record wherein the factum of Professional Development Programme/Education Expo organised by Nirdesh Education and Research Foundation and the participation of Baroda Chapter in such programmes are evident. These records are of the year 2016. It is the common stand of CMA Mihir Vyas, CMA Priyank Vyas and CMA Hardik Diwanji that the old relationship between Nirdesh Education and Research Foundation and Baroda Chapter was simply being continued. The relationship started at a point of time when they were not a part of the Managing Committee and in their term, there was no cogent reason to discontinue such existing relationship. It is also on record that on 19th September, 2019 the Managing Committee of the Baroda Chapter, in their collective wisdom, adopted resolution to appoint a third party agency to conduct 'Career Seminars' and budget was approved upto Rs.5,000/- per seminar. The said meeting was attended by CMA Hardik Diwanji, CMA Kartik Vasavada, CMA Mihir Vays, CMA Priyank Vyas, CMA Chetan Gandhi and CMA Amrtua Vyas. The decision was unanimous and the vouchers towards payment to the Nirdesh Education and Research Foundation are also on record. From a bare perusal of such vouchers, it clearly transpires that the vouchers were sanctioned by CMA Priyank Vyas, the Treasurer. It is also

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worthy to be mentioned that even the Headquarters of Institute of Cost Accountant of India promotes such types of career awareness programme and in majority of the cases 50% amount have been reimbursed by Headquarters to the Baroda Chapter.

It is not disputed that CMA Mihir Vyas, CMA A. G. Dalbadi and CMA S. V. Diwanji are members of many committees of M/s. Nirdesh Education Research Private Limited. However, I do not think that such relationship come under "Near Relationship" having conflict of interest. Moreover, though the complainant has pinpointed his allegations towards CMA Mihir Vyas, it cannot be disputed that the relationship with Nirdesh Education and Research Foundation started much prior to CMA Mihir Vyas becoming the Secretary of Baroda Chapter. The Managing Committee of the Baroda Chapter sanctioned budget @ Rs.5,000/- per seminar in their collective decision. Vouchers were sanctioned by the concerned Treasurer and in such a background, I do not find force in the allegation of the complainant because neither CMA Mihir Vyas introduced Nirdesh Education and Research Foundation for the first time; nor did he singlehandedly approve the budget for the purpose of educational seminar/ educational programmes. The amount paid is a meagre amount of Rs.15,000/- (Rupees fifteen thousand)

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So with regard to this issue, I did not find any irregularity, contravention or malpractice.

I have elaborately discussed the facts and circumstances with regard to each of the three complaints lodged by the complainant, Sri Mohan Lodhi. I have considered the Cost and Works Accountants Act, 1959, the Rules and Regulations framed thereunder along with the Chapter Bye-laws. The documents and representations submitted by the said complainant and the other aforesaid persons have also been considered. Considering the complaint, the applicable Acts and statutes and relevant documents, I do not find any case of contravention of statute or any case of corruption/malpractice warranting further measures to be taken by the Institute of Cost Accountants of India.

This is my response to the letter issued by the President of the said Institute being Memo No. G/142/11/2022(1) dated 5th November, 2022.

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Former Judge, High Court at Calcutta.

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7. The written statement dated 29th October 2022 submitted by the Respondent was forwarded to the Complainant vide letter No. G/DD/Com-CA(115)(M-13599)/2/11/2022 dated 15th November 2022, calling upon him to submit a rejoinder in terms of Rule 8(4) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. However, no rejoinder or further communication was received from the Complainant within the prescribed period. It has further come to the notice of the Directorate that the Complainant has since expired.

8. A question arose as to whether the demise of the Complainant would render the present proceedings infructuous and liable to be closed. In this regard, it is observed that disciplinary proceedings initiated under the Cost Accountants Act, 1959 are not rendered non-maintainable merely on account of the death of the Complainant. While the demise of a Respondent-member may, in appropriate circumstances, result in closure of proceedings since disciplinary sanctions are personal in nature and cannot be imposed posthumously, the death of a Complainant does not automatically extinguish the proceedings. The disciplinary mechanism under the Act is intended to safeguard the integrity of the profession and is not dependent solely upon the continued participation of the Complainant. Consequently, the matter is required to be adjudicated on the basis of the material available on record. Accordingly, this Directorate proceeds to examine and determine the complaint on its merits

9. **Comments of the Discipline Directorate**

Upon consideration of the complaint, the written statement filed by the Respondent, the documents available on record, and the relevant provisions of the Cost Accountants Act, 1959 and the Rules framed there under, the observations is as follows:

a) The present complaint substantially concerns the internal administrative functioning of the Baroda Chapter of the Institute, including allegations relating to award of work orders, procurement procedures, approval of expenditure, alleged conflict of interest, adoption of accounts, and payments made by the Chapter to certain entities.

b) A considerable number of allegations raised by the Complainant pertain to:

- alleged procedural irregularities in the administration of the Chapter;

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- alleged non-compliance with the General Financial Rules (GFRs), Central Vigilance Commission guidelines, and internal delegation of powers;
- alleged deficiencies in procurement and tendering processes; and
- alleged irregularities in the maintenance and adoption of accounts by the Managing Committee of the Chapter.

c) It is noted that the allegations made in the complaint are general in nature and appear to be directed against the functioning of the entire Managing Committee of the Baroda Chapter rather than against the Respondent individually. The material available on record indicates that the decisions impugned in the complaint were taken collectively by the Managing Committee, and no evidence has been placed on record to establish that the Respondent alone exercised decision-making authority in relation to the award of the works in question.

d) It is further noted that complaints based on substantially similar allegations were also addressed to the Ministry of Corporate Affairs through the Public Grievance Portal and were subsequently forwarded to the Institute for appropriate action. Pursuant thereto, Hon'ble Justice Ashoke Kumar Dasadhikari (Retd.), Former Judge of the High Court at Calcutta, was appointed as an Independent Inquiry Officer to examine the allegations and determine whether any contravention of statutory provisions, corruption, malpractice, or irregularity warranting action by the Institute was established.

e) Upon completion of the inquiry, Hon'ble Justice Ashoke Kumar Dasadhikari (Retd.), vide report dated 05th November 2022, concluded that no contravention of any statutory provision, nor any instance of corruption, malpractice, or irregularity warranting further action by the Institute, was made out.

f) The Inquiry Officer was a former Judge of a Constitutional Court and an independent external authority. The findings recorded in the said report carry considerable evidentiary and persuasive value. Significantly, no material has been placed on record to indicate that the report has been challenged, set aside, or otherwise questioned before any competent judicial or quasi-judicial forum.

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g) In view of the aforesaid findings, the foundational allegations of corruption, malpractice, and statutory violations, which form the substratum of the present complaint, stand substantially negated by the independent inquiry. The report having attained finality, the very basis of the complaint is materially weakened.

h) In the absence of any independent material establishing professional or other misconduct within the meaning of the Schedules to the Act, the allegations appear insufficient to attract the provisions invoked by the Complainant under the First Schedule and the Second Schedule to the Cost Accountants Act, 1959.

10. **Findings and Order of the Board of Discipline**

a) The Board of Discipline has carefully examined the complaint, the written statement and additional submissions filed by the Respondent, the documents and material available on record, the report of Hon'ble Justice Ashoke Kumar Dasadhikari (Retd.), Former Judge of the High Court at Calcutta, and the provisions of the Cost Accountants Act, 1959 and the Rules framed there under.

b) Upon consideration of the material on record, the Board observes that the allegations raised by the Complainant primarily relate to the internal administrative functioning of the Baroda Chapter of the Institute, including matters concerning procurement procedures, award of contracts, approval of expenditure, maintenance and adoption of accounts, and decisions taken by the Managing Committee of the Chapter.

c) The Board observes that allegations largely pertain to alleged procedural irregularities and administrative decisions taken collectively by the Managing Committee. Such matters, in the absence of specific evidence establishing a breach of professional duties by an individual member, do not ipso facto constitute professional or other misconduct within the meaning of the Schedules to the Cost Accountants Act, 1959.

d) The Board concurs with the view of the Director (Discipline) that the present disciplinary proceedings remain maintainable notwithstanding the demise of the Complainant. Since disciplinary proceedings are intended to uphold the integrity of the profession and are not dependent upon the continued participation of the

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Complainant, the complaint is liable to be adjudicated on its merits based on the material available on record.

e) The Board further notes that substantially similar allegations were independently examined pursuant to directions received through the Ministry of Corporate Affairs and were subjected to an inquiry conducted by Hon'ble Justice Ashoke Kumar Dasadhikari (Retd.), Former Judge of the High Court at Calcutta. The Inquiry Officer, after examining the relevant records, applicable statutory provisions, and submissions of the parties concerned, concluded that no contravention of any statutory provision and no case of corruption, malpractice, or irregularity warranting further action by the Institute was made out.

f) The Board observes that the aforesaid inquiry was conducted by an independent external authority of high judicial standing. Further, no material has been placed on record to demonstrate that the findings recorded in the said inquiry report have been set aside, modified, or challenged before any competent judicial or quasi-judicial forum. Accordingly, the Board finds no reason to disregard the conclusions arrived at in the said inquiry.

g) The Board further observes that the decisions impugned in the complaint were taken collectively by the Managing Committee of the Baroda Chapter. No material has been placed on record to establish that the Respondent individually exercised exclusive decision-making authority or was solely responsible for the actions complained of. In the absence of any specific evidence attributing the alleged acts exclusively to the Respondent, the allegations fail to sustain a case of professional or other misconduct against him. Accordingly, the complaint does not survive on merits.

h) In view of the above facts and having regard to the material available on record, the Board holds that no prima facie case of professional or other misconduct is made out against the Respondent under the provisions of the Cost Accountants Act, 1959.

i) Accordingly, in exercise of powers conferred under Rule 9(3) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and

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Conduct of Cases) Rules, 2007, the Board hereby orders that the proceedings against CMA Mihir Vyas (M/31564) be dropped, and the case stands closed.

j) The complaint is, therefore, disposed of accordingly.

CMA (Dr.) Ashish Thatte
(Member)

Shri P.K. Pujari, IAS (Retd)
(Presiding Officer)

Place: New Delhi
Date: 3rd July, 2026

Distribution under Rule 15(3) of the Rule

1) Director(Discipline), The Institute of Cost Accountants of India
2) Complainant, CMA Mukesh B. Kaka (M/13599)
3) Respondent, CMA Mihir Vyas (M/31564)

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