



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area

Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

The Institute of Cost Accountants of India

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

Final order number: ICMAI/BOD/2026/64

Complaint number	Com/21-CA(116)/2022
In the matter of	CMA Rajubhai Kantilal Patel (M/14115) [Complainant] Vs. M/s Diwanji & Co. (FRN 000339) [Respondent]
Date of Hearing	As per records and order sheet
Date of order	15 th October, 2026

CORAM:

1	Shri P.K. Pujari, IAS (Retd)	Presiding Officer
2	CMA Avijit Goswami	Member

PRESENT IN HEARINGS

1	CMA(Dr) Hemant Kumar Sindhvani	Director (Discipline)
---	--------------------------------	-----------------------

1. The Disciplinary Directorate received a complaint in Form I dated 16th August, 2022, accompanied by the prescribed complaint fee, from CMA Rajubhai Kantilal Patel bearing Membership No. 14115 (hereinafter referred to as the "Complainant"), against M/s Diwanji & Co. bearing Firm Registration No 000339 (hereinafter referred to as the "Respondent Firm"). The complaint alleges that the Respondent Firm furnished misleading information in the bid documents submitted pursuant to Tender Notice No. CIL 2019_CILHQ_147394_1 issued by Coal India Limited for the empanelment of Cost Auditors for the financial year 2019-20. The said complaint is being dealt with under Section 21 of The Cost Accountant Act, 1959 (hereinafter referred to as "Act"), read with Rule 3 of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 (hereinafter referred to as "The Rules 2007").
2. The particulars of the complaint, as set out in Form I, are reproduced herein below verbatim:

Com/21-CA(116)/2022



Page 1 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

FORM I

(See sub rule (1) of Rule 3)

1.	Name of the Complainant with membership number, if member of Institute of Cost Accountants of India	CMA Rajubhai Kantilal Patel (M-14115)
2.	Name of the member/firm Against whom complaints is being made: (with membership Number/registration number of the firm, if known)	Diwanji & Co. FRN : 000339
3.	Latest address of the complaint for communication.	314 phoenix complex Nr. Suraj Plaza Sayajigunj Vadodara- 390020
4.	Last Available Professional address of the member or the firm against whom the complaints is made.	111, Offtel Towers, R.C. Dutt Road, Behind Sagun Hotel, Alkapuri Vadodara- 390007
5.	Particulars of allegation (S) serially numbered together with corresponding clause	As per Annexure- 1
6.	Particulars of evidence(s) adduced in support of the allegation name	Annexure as attached.
7.	Name(s) of person who have knowledge of the facts of the case	Nil

3. The complainant has enclosed annexure-1 along with his complaint in Form I, the relevant among which are as follows:

- A detailed profile of M/s Diwanji & Co. i.e., the respondent firm with copies of documents from several companies like Western Coalfields Ltd, Reliance Industries Ltd, Essar Oil Ltd, Gujarat Narmada Valley Fertilizers & Chemicals Ltd (GNFC), Gujarat State Fertilizers & Chemicals Ltd, Madhya Gujarat Vij Company Ltd, Maharashtra State Electricity Transmission Co. Ltd, Bharat Sanchar Nigam Ltd, letter from Ministry of Chemicals & Fertilizers, Department of Fertilizers, Government of India, among others, where the respondent had undertaken cost audit /costing related job.

Com/21-CA(116)/2022



Page 2 of 29

[Signature]



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

- ii. A copy of the Letter of Undertaking (LUT) dated 22nd August 2019 signed by CMA S.V. Diwanji (M/753) addressed to CMPDIL, Ranchi responding to the tender floated by CIL.
 - iii. Deed of Partnership among Partners of the respondent firm.
 - iv. Document regarding the validity of Certificate of Practice (CoP) of the Partners. Intermediate passed mark sheets of CMA students and final passed mark sheets of qualified cost accountants.
 - v. Details of the Partners of the respondent firm as downloaded from the 'Members' Online System' of the respondent firm.
4. The complaint dated 16th August, 2022 was received by the Disciplinary Directorate on 18th August, 2022. Upon scrutiny, it was found to be in order and registered as Complaint No. Com/21-CA(116)/2022 for processing in accordance with Chapter III of Rules, 2007. The Complainant was informed of its registration vide acknowledgement dated 24th August, 2022.
5. A copy of the complaint dated 16th August, 2022, along with its annexure, comprising 186 pages, was duly forwarded to the Respondent Firm vide letter No. G/DD/Com-CA(116)/(FRN000339)/01/08/2022 dated 25th August, 2022, in terms of sub-rule (3) of Rule 8 of the Rules, 2007 with a request to submit his written defense statement within 21 days from the date of service of this. Since the complaint was against a firm, it was also called upon, under Rule 8(1)(b) of the said Rules, to disclose the name or names of the member or members responsible for answering the complaint and furnish a declaration, signed individually or jointly, as applicable, confirming their acceptance of such responsibility and receipt of the complaint and particulars of the alleged acts of commission or omission.
6. The respondent, vide letter dated 15th September, 2022 served on 19th September, 2022 submitted his defense written submission consisting (20) pages including annexure, which is reproduced below:

Quote

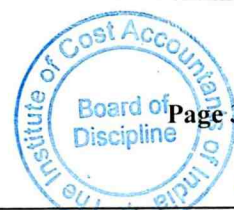
Sub: Response to the Complaint No. Com/21-CA(116)/2022 – CMA Rajubhai Kantilal Patel (M-14115) [Complainant] Ms/ Diwanji & Co. Cost Accountants (FRN 000339) [Respondents]

Ref: G/DD/Com-CA(116)/(FRN 000339)/01/08/2022

Respected Sir,

This has reference to letter No. COM/CA/116/2022 dated 25.08.2022 received by us on 30.08.2022.

Com/21-CA(116)/2022



Page 3 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

I, CMA Mihir Vyas (M-31564), a partner of Diwanji & Co., Cost Accountants (FRN: 00339) would like to respond to the said complaint on behalf of the firm.

At the outset, we deny all allegations levelled by CMA R.K. Patel (M/14115) against the firm. The complaint is false and filed with malicious intention to malign our firm's reputation. It is based on political vendetta and revenge against us – partners of the firm because of a complaint about gross professional misconduct by the complainant filed by our one of the partner of the Firm vide complain No. COM/21-CA/109/2022.

We would like to place on records that we have not furnished any mis-statement of facts or any incorrect statement with reference to the tender: cil/gm(f)/2019-20/Cost Auditors/01 of M/s. Coal India Limited (CIL).

OUR POINT-TO-POINT RESPONSE TO THE ALLEGATIONS LEVELLED BY CMA R.K. PATEL IS AS FOLLOWS:

Allegation-1: Fraudulent declaration of no of years of experience (Refer Page No. 4 of the complaint):

We have explained the facts only. No mis-statement is there. We have highlighted journey of CMA S.V. Diwanji who had started his practice as a Cost Accountant with effect from 8th June, 1966. Over a period of time, there were changes in rules and regulations, environment and circumstance; he has to change form of his firm – Bhatia & Diwanji (Partnership firm), Diwanji & Associates (Proprietorship firm) and Diwanji & Co. (Partnership firm) due to changes in the environment and circumstances. Hence, no question arises about any mis-statement or hiding of any facts.

Please refer to **Annexure IA and IB** attached to this letter.

Thus, the allegation is unsubstantiated, baseless and not fraudulent in any manner.

Allegation-2: Fake & Fraudulent List of Employees (Refer Page no. 5 to 7 of the complaint):

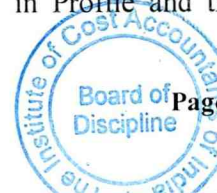
From the document provided by the complainant, it is amply clear that Tender document of CIL had asked about 'No. of fully qualified assistants (Cost Accountants/Chartered Accountants) in the firm'. In response to this item, we have given names, relevant documents and other factual information only.

- (i) CMA Bhargav Nagar (M/41571) was holding COP and at the same time, he was providing his professional services to our firm on case-to-case basis by charging professional fees. Our firm has never claimed that CMA Bhargav Nagar is a fulltime employee of our firm. We have shown him as one of the Cost Accountant who is assisting the firm. We have paid him professional fees, deducted applicable TDS under 144J of the Income Tax Act, 1961 and deposited the same with the Government.

Thus, any mis-statement to the Institute by us or by CMA Bhargav Nagar is while applying or renewing his COP is not correct and we have not given any incorrect statement.

- (ii) As far as CMA Tarlika Baria is concerned, kindly refer to table of page 5 of the complaint where her name is not part of the said list.

The complainant has dragged her name in this complaint with malicious intent to frighten her. The complainant has attached her Linked in Profile and tried to





ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

mislead the Disciplinary Directorate. This shows his bad intent, which is his professional misconduct by reporting utterly incorrect information to the Institute.

This shall be treated as professional misconduct as he made mis-statement before disciplinary director.

- (iii) Let me place on the record that the complainant and his son CMA Bhavin Patel (M/31969) were threatening to us that they are going to file numerous Disciplinary Complaints against us and our employees/colleagues working with us and here is the proof. Please refer to the copy screen shots of threatening WhatsApp messages attached herewith vide **Annexure IIA and IIB.**

Therefore, we request the Institute to take serious action against the CMA Rajubhai Kantilal Patel who mislead the Institute by providing wilfully mis-statement to malign our firm.

Allegation-3: Fake work orders shown as experience (Refer Page no. 7 to 11 of the complaint):

It may be noted that Government of India has allowed cost accountants to sign cost audit reports in the name of firm – Sole Proprietor/partnership firm from 1995-96 onwards. Till then, all cost audit reports and other certificates were signed by cost accountants in their individual capacity only. After this, many firms of cost accountants have come into existence.

Further, the Institute of Cost Accountants of India had formalised registration of firms from 2012 onwards.

Now as far as the experience of cost audit(s) is concerned, we have factually reported the facts that under which partner's leadership various cost audits have been undertaken. Our intent is to showcase the rich experience of our firm's partners in conducting cost audit(s) of different big companies/Industries. We have submitted photocopies original work orders/Appointment letters awarded by the companies concerned. For e.g. CMA Rohit Vora was appointed as a Cost Auditor of WCL for the year 2012-13 (refer page no. 10 of the complaint) and he had joined as a Partner in our firm.

Thus, the frivolous allegation leveled against us and with mala fide intention to malign our firms and partners' reputation. There is no misstatement by us.

Allegation-4: Leakage of confidential information to other cost accountants (Refer page no. 11 to 13 of the complaint):

Once again, the complaint has leveled a baseless allegation to malice our firm's reputation. He has failed to show about leakage of exact nature of information to other cost accountants.

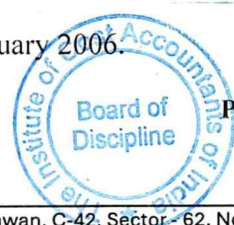
The fundamental principle of any networking of firms is to pool resources professional knowledge, experience, expertise and/or Infrastructure. In this case, our prime objective is to bring experience, expertise and knowledge.

There is no leakage of any sensitive information to any other cost accountant(s).

Further, our firm has attached a certificate of M/s. Dalwadi & Associates that we have jointly carried out audit of GNFC, GSFC etc. This is a networking arrangement to pool manpower and other resources of both firms whenever required. This is being carried out on professional service basis only. No commission, sharing of profit/fees is involved.

The Institute has also allowed such networking from 1st January 2006.

Com/21-CA(116)/2022



Page 5 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

Thus, this allegation is imaginary conviction of the complainant to harass us with ill motive to malign the reputation of our firm. It has no merit.

FACTS BEHIND SUCH A FRIVOLOUS COMPLAINT:

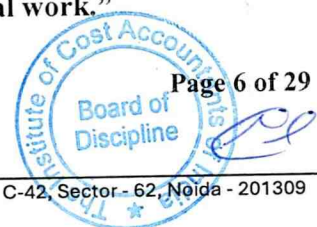
1. In last week of November 2020, we along with other practicing members of Vadodara had received a mail with subject: "Quotation for Appointment of Cost Auditors for 2020-21" and inviting us to provide details and fees etc. of our clients from one company M/s. Neogen Chemicals Limited, Karakhadi. Subsequently, 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 matter and found that the said fake mail was originated from the office of CMA R.K. Patel (M/14115). Police had arrested CMA Bhavin R Patel (M/31969) (S/o. R.K. 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-III**.
2. Thereafter, CMA R.K. Patel and his colleagues had started harassing us through WhatsApp messages and/or phone to Mr. Diwanji. A copy of the screenshots of WhatsApp image is attached herewith vide **Annexure IV**.
3. CMA R.K. Patel (M-14115), CMA M.B. Kaka (M-13599) and CMA Y.S. Thakar (M-9688) have filed around 12 RTI applications and around 07 Disciplinary Complaints against our colleagues till date. Even one disciplinary complaint with CA Institute against one day who was associated with our firm. Their motive is to take revenue against us only.
4. CMA S.V. Diwanji (M/753) is one of the stalwart professionals of our profession. He is a recipient of **Lifetime Achievement Award** from the Institute of National CMA Practitioners' Convention 2018 held at Vadodara in May 2018. It is beyond doubt that the group of unscrupulous persons is trying to malign the image of CMA S.V. Diwanji & our firm.
5. 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 Y.S. Thakar (M/9688).

Based on the above it is clear that the complaint is based on revenge only.

OUR POINT-TO POINT RESPONSE TO ALLEGATIONS WITH REFERENCE TO VARIOUS CLAUSES AS MENTIONED ON PAGE 13 OF COMPLAINT IS AS UNDER : (Refer Page no. 13 of the complaint):

- a) Sheer negligence by a professional cost accountant, which invites disrepute to the institute under clause (2) part IV of the First Schedule to the Act.
The said clause reads:
"A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if ----
(2) in the opinion of council, he brings disrepute to the profession or Institute as a result of his action whether or not related to professional work."

Com/21-CA(116)/2022



Page 6 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

The matter is brought to the Disciplinary Directorate and not by the Council. He has failed to provide any specific act or action against us which has been defined/ termed as an act of other professional misconduct by the council.

- b) (5) Secures, either through services of a person who is not an employee of such cost accountant or who is not a partner or by means which are not open to a cost accountant, any professional business:

“There are only two clauses in part- IV of the First Schedule to the Act. The complainant has referred violation under clause (5) of part- IV of the First Schedule to the Act which is non-existent”.

It seems that the complainant has lost his balance of mind and is not able to pin point the exact clause under which he wants to allege us even though he is member of institute. This is nothing but a gross professional negligence on his part.

He is referring to clause (5) is a part I of the First Schedule to the Act, he has deliberately referred portion of the said clause to mislead the Directorate of Discipline. The proviso to the said clause reads:

“Provided that nothing herein contained shall be construed as prohibiting any arrangement permitted in terms of item (2), (3) and (4) of this part.”

Item (2) deals with direct or indirect payment of share in fees, commission, profit etc. with a person other than a member of the Institute etc.

Item (3) deals with acceptance of any part of the profits, commission etc. of the professional work payment of share in fees, commission, profit etc. from a person other than a member of the Institute. Thus, we have not violated this cause.

Item (4) deals with a partnership in or outside India with any person other than a cost Accountant in Practice. We have not violated this clause also.

We have already refuted such allegations as mentioned earlier in this defense statement.

- c) Not supplying factual information to the Institute and to defraud clients, has done professional misconduct under clause (1) & (3) of the Part III of the second schedule of the Act.

Once again, the complainant has cited wrong clause in negligent and unprofessional manner.

Part III of the Second Schedule has no such clauses as referred by the complainant. There is only one clause (without any number). It reads:

“A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he is held by guilty by any civil or criminal court for an offence which is punishable with imprisonment for a term exceeding six months”.

There is no case against our firm or any of the partners of the firm where we have found guilty. He should know before alleging anybody in negligent and unprofessional manner that he is reporting incorrect citations of rules/regulations in a very casual manner before a quasi-judicial body. He has no respect for judicial body and procedure.

- d) (6) solicits clients or professional work either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means:





ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area

Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

We have responded to an open tender of CIL. No question of soliciting of work in any manner as mentioned above has arisen at any time. Even complainant himself is one of the participants of the said tender. Does it mean that he has solicited?

- e) (3) while inviting professional work from other cost accountant or while responding to enquiries or while advertising through write-up or anything provided for item (6) and (7) of part I of this Schedule, gives information knowing it to be false.

We have amply made it clear that we have not made any misstatement. We have made due disclosures to remove doubt, if any, at any stage while submitting our tender documents.

Prayer:

1. All allegations are baseless and leveled against us to malign our firm and partner's image in the society. Any of the allegations leveled against has no merit.

We earnestly request to quash the complaint at the earliest.

2. The complainant has made this complaint to settle the score with us for a criminal complaint made by the police against his son for fake email. He himself, his son, and his colleagues have given our colleagues and us numerous threats about ruining our career.

We earnestly request you disciplinary directorate and council of the Institute to investigate the matter and take appropriate legal actions against such anti-social professionals. Such action will become an example to have deterrent effect on persons making false complaints to harass innocent members of the Institute.

We assure you our best support at all times in proceedings of the matter. Please do feel free for any further information and/or clarification.

We are looking forward to you for Justice in time. Please do expedite.

For Diwanji & Co.

Cost Accountants

FRN : 000339

CMA Mihir Vyas

Partner

M-31564

Unquote

7. CMA Mihir Vyas, on behalf of the Respondent Firm, furnished, inter alia, the following documents with his written statement dated 15th September, 2022:

- (i) A certificate confirming the validity of the Certificate of Practice (COP) of CMA Shirish Vaikunthlal Diwanji (Membership No. 753), recording 8th June, 1966 as the date of obtaining his COP.
- (ii) A printout from the Members Online System containing particulars of the Firm's partners and their contact details.

Com/21-CA(116)/2022



Page 8 of 29



ICMAI

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



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

- (iii) Screenshots of WhatsApp messages allegedly sent from mobile number +91-76000 22094 to Shri Anuj Pathak, purportedly containing threats.
 - (iv) Screenshots of WhatsApp messages allegedly sent by the Complainant to CMA S. V. Diwanji.
 - (v) A copy of the charge sheet dated 2nd February, 2022, in Gujarati, bearing CC No. 2613/2022, against Shri Bhavin Patel, son of the Complainant.
8. The written statement dated 15th September 2022 was forwarded to the complainant vide letter No. G/DD/Com-CA(116)/(M-14115)/02/09/2022 dated 26th September 2022 followed by reminder dated 22nd December 2022 calling upon him to submit a rejoinder in terms of Rule 8(4) of the Rules, 2007 within 21 days from the date of receipt of the letter under reference.
9. The complainant submitted an undated rejoinder served on 14th June 2023 which is reproduced below:

Quote

“Sub.: Rejoinder to Complaint Com-21(CA)/116/2022- CMA Rajubhai Kantilal Patel (M-14115) (COMPLAINANT) M/s. Diwanji & Co. (Respondent)

Dear Sir,

Point wise reply is as per below:

Allegation-1: Fraudulent declaration of No. of Years of experience

Reply by M/s. Diwanji & Co.

We have explained the facts only, No mis-statement is there. We have highlighted Journey of CMA S.V. Diwanji who had started his practice as a Cost Accountant with effect from 8th June, 1966. Over a period of time, there were changes in rules and regulations, environment and circumstances; he has to change form of his firm – Bhatia & Diwanji (Partnership firm), Diwanji & Associates (Proprietorship firm) and Diwanji & Co. (Partnership firm) due to changes in the environment and circumstances. Hence, no question arises about any mis-statement or hiding of any facts.

Please refer to Annexure IA and IB attached to this letter.

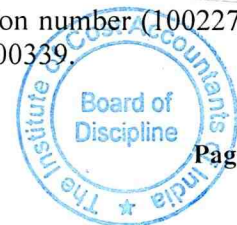
Thus, the allegation is unsubstantiated, baseless and not fraudulent in any manner.

M/s. Diwanji & Co has applied for the said tender 2019_CILHQ_147394_1 for [EMPANELMENT AND SELECTION FOR APPOINTMENT OF COST AUDITOR FOR CIL STANDALONE] [CIL/GM (F)/2019-20/Cost Auditor/01].

The said tender was applied in name & style of M/s. Diwanji & Co. and not any other firm.

M/s. Diwanji & Associates is having different firm registration number (100227) other than M/s. Diwanji & Co. bearing firm Registration Number 000339.

Com/21-CA(116)/2022



Page 9 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area

Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

Hence there was no need of showing years of experience of M/s. Diwanji & Associates or his own practice from 1996.

The applicant firm M/s. Diwanji & Co. bearing Regn. No. 000339 is separate legal entity having separate Service tax/GST number and is no way related to M/s. Diwanji & Associates except for common partners.

The said experience of 54 years is totally fake, fraudulent & mis representation done by M/s. Diwanji & Co.

Sl. No.	Selection Criteria	
1	Year of establishment of the Firm, since the date of registration	i) Year of Registration with ICAI : Initially, the Firm was established in Year 1966 named as M/s. Bhatia & Diwanji (Partnership Firm). After the demise of one partner, Mr. Bhatia, the Partnership Firm was converted into Sole Proprietorship firm by Mr. S.V. Diwanji named as Diwanji & Associates in the year 1999 and Later on to expand the service base new Efficient Partners were added & a new partnership firm named as Diwanji & Co. was created on 27.03.2012. (Attached as per DOC-1) (II) No. of years till 31.03.2019 : 54 Years

The above misconduct clearly attracts below provision of Disciplinary schedule.

1. PART III PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY

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

2. PART I PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS PRACTICE

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

Allegation-2: Fake & Fraudulent List of Employees

The term "Number of Fully qualified Assistants (Cost Accountants/Chartered Accountants) in the firm" clearly means that COAL INDIA LTD. is asking for full time employees/assistants in the firm.

Hereby M/s. Diwanji & Co. has fraudulently shown:

1. Mr. Bhargav Nagar (M-41571) which M/s. Diwanji & Co. claims to be full time employees in their firm is a Practising Cost Accountants which can be seen from Book of Practising cost accountants published by ICMAI as on 1st April 2019 having firm Registration No. 001347 named B.G. Nagar & Co.

Com/21-CA(116)/2022



Page 10 of 29



ICMAI

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



Headquarters:

CMA Bhawan, 3, Institutional Area
 Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

I request Disciplinary Director to kindly probe the date of Certificate of Practice and its renewal thereafter.

The above fact clearly shows that While applying for COP as well as renewal of COP, a member is supposed to declare that he is not holding employment in any organization or under any person and further he has to confirm the information provided in FORM M3 are correct as part of verification.

This clearly indicates that either Mr. Bhargav Nagar has connived with Diwanji & Co or M/s. Diwanji & Co. has misrepresented and given fraudulent facts.

I Request Director Discipline to kindly probe employees/assistants of M/s. Diwanji & Co. during the period of August 2018 to August 2019 as per tender clause Note: Partner/fully qualified assistant in the firm should be associated for a minimum period of one year as on the date of application.

Reg. No. 001347

Nagar (Mr.) Bhargav Girishbhai MCOM, ACMA
B.G. Nagar & Co., A-17, Bakulpark Society
Sahayog, Gorwa, Refinery Road, Vadodara- 390016
Tele- 7016435662

Email- nagarbhargav1992@gmail.com

[41571]

The above misconduct clearly attracts below provision of Disciplinary schedule

1. PART III PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY

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

2. PART I PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE.

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

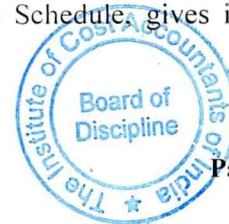
Allegation-3: Fake work order shown as experience

Here the respondent M/s. Diwanji & Co. itself has shown that they are in existence from 27.03.2012 and also their other firms like Diwanji & Associates is having separate legal Firm Registration Number.

Hence, showcasing of fake work orders for which work are not done by M/s. Diwanji & Co. clearly attracts:

1. PART III PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY.

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



Com/21-CA(116)/2022

Page 11 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

2. PART 1 PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE

- (1) Discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of his client, or otherwise than as required by any law for the time being in force;
- (7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties ;

**DALWADI & ASSOCIATES
COST ACCOUNTANTS**

To Whomsoever This May Concern

This is to certify that We, Dalwadi & Associates and M/s. Diwanji & Co., Cost Accountants are associated and involved jointly in carrying out different major cost audit assignments such as M/s. GSFC Ltd., Vadodara, M/s. Gujarat Gas Ltd. , Ahmedabad, M/s. Gujarat Narmdacity Fertilizers and Chemicals Ltd. Bharuch, M/s. Adani Willmar Ltd. Ahmedabad

Date : 21st July 2017

Place: Ahmedabad

I request Director Discipline to kindly probe that such networking arrangement was approved by GSFC Ltd. and consent from company was taken for sharing of cost audit data considering the fact that cost audit data was confidential.

I request Director Discipline to kindly probe that such networking arrangement was approved by GNFC Ltd. and consent from company was taken for sharing of cost audit data considering the fact that cost audit data was confidential.

I request Director Discipline to kindly probe that such networking arrangement was approved by Gujarat Gas Ltd and consent from company was taken for sharing of cost audit data considering the fact that cost audit data was confidential.

Also during the course of complaint I have found out below documents which were totally forged/fake.

M/s. Diwanji & Co has shown below certificate issued by M/s. GSFC Ltd.

GUJARAT STATE FERTILIZERS & CHEMICALS LIMITED

Fertilizernagar- 391 750 Vadodara, Gujarat, INDIA

CIN: L99999GJ1962PLC001121

TO WHOMSOEVER IT MAY CONCERN

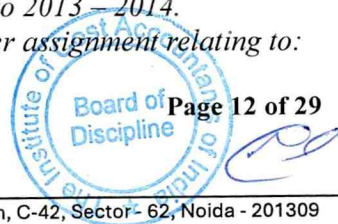
Gujarat State Fertilizers & Chemicals Ltd. is one of the largest Gujarat Government promoted company and is engaged in business of:

1. Fertilizers
2. Chemicals
3. Textiles
4. Polymers ; and
5. Power Generation (Captive Power Plant)

Mr. S.V. Diwanji (M-753), Cost Accountants, Partner of Diwanji & Co. and Mr. Mihir Vyas (M-31564) Mrs. Amruta Vyas (M-33499) are also involved in Cost Audit of Cost Accounting Records is per the Companies (Cost Records and Audit) Rules issued by the Central Government for the years 2009-2010 to 2013-2014.

Mr. S.V. Diwanji & his team is also involved in various other assignment relating to:

Com/21-CA(116)/2022



Page 12 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

1. FICC Certificate
2. NBS Certificate
3. Annual Cost Data
4. Special Study on Viability of Fibre Unit

Firm and all team members are working in SAP system and having good experience of SAP system.

July 21, 2017

Vadodara

(V.D. Nanavaty)

Sr. Vice President (Finance) & CFO

The above certificate clearly shows that Mr. Mihir Vyas was involved in Cost Audits of M/s. GSFC Ltd. during the year 2009-10 to 2013-14.

It is very interesting that during the period Oct 2011 to April 2014 Mr. Mihir Vyas was full time employee in Corporate Finance Deptt. of M/s. Alembic Pharma Ltd. having address as Corporate & Regd. Office Alembic Road, Vadodara- 390003, Gujarat, INDIA Phone: +91-265-663 7000. Fax: +91-265-228-1508, Email: info@alembic.co.in.

This clearly means that Mr. Mihir Vyas, partner of Diwanji & Co. was having access to data of GSFC Ltd. and was also practicing as a Cost Accountant simultaneously along with his full time employment.

I request Director Discipline to kindly probe whether:

1. Employment record from M/s. Alembic Pharma Ltd. of Mr. Mihir Vyas Partner of Diwanji & Co. during the period of Oct 2011 to April 2014.
2. Whether Mr. Mihir Vyas was having Membership No. 31564 as on Oct 2011
3. State date of Practise as Cost Accountants by Mr. Mihir Vyas
4. In case he was in full time employment with M/s. Alembic Pharma Ltd., how he was involved in Costs Audit of M/s. GSFC Ltd.

The above misconduct of M/s. Diwanji & Co. clearly attracts:

1. PART III PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY

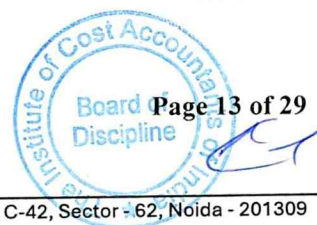
(2) While inviting professional work from another cost accountant or while responding to tenders or enquires or while advertising through a write up, or anything as provided for in items (6) and (7) of Part I of this Schedule, gives information knowing it to be false.

Also for sharing data with Mr. Mihir Vyas who was neither partner nor employee for cost audit data acquired in the course of professional engagement without consent of his client.

2. PART I PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE

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

Also the above misconduct by Mr. Mihir Vyas Partner of Diwanji & Co. clearly attracts:





ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area

Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

PART I PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE

(10) engages in any business or occupation other than the profession of cost accountant unless permitted by the Council so to engage:

PART II PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY

(1) Contravenes any of the provisions of this Act or the regulations made there-under or any guidelines issued by the Council;

(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;

Also during the course of complaint I have found out below documents which are totally forged/ fake.

M/s. Diwanji & Co has shown below certificate issued by M/s. Madhya Gujarat Vij Co. Ltd.

MGVCL

An ISO 9001:2008 Company

MADHYA GUJARAT VIJ COMPANY LIMITED

TO WHOMSOEVER MAY CONCERN

Mr. S.V. Diwanji (M-753), Cost Accountant, now Partner of Diwanji & Co. and Mr. Mihir Vyas (M-31564), Mrs. Amruta Vyas (M-33499) are also involved in Cost Audit as per the Companies (Cost Records and Audit) Rules, issued by the Central Government for the years 2007-2008 to 2011-2012 of Madhya Gujarat Vij Company Limited.

Mr. S.V. Diwanji (M-753), Cost Accountant, Partner of Diwanji & Co. is Cost Auditor of Company.

Firm and all team members are working in ERP system and having good experience of ERP system.

Madhya Gujarat Vij Company Limited is one of the largest Government of Gujarat distribution companies.

Date: 21/07/2017

Place: Vadodara

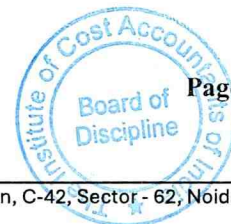
(P.M. Shah)

Chief Finance Manager (Finance)

The above certificate clearly shows that Mr. Mihir Vyas was involved in Cost Audits of M/s. MGVCL during the year 2007-08 to 2011-12.

It is very interesting that during the period Oct 2011 to April 2014 Mr. Mihir Vyas was full time employee in Corporate Finance Deptt. of M/s. Alembic Pharma Ltd. Having address as Corporate & Regd. Office, Alembic Road, Vadodara- 390003, Gujarat, INDIA Phone: +91-265-663 7000. Fax: +91-265-228 1508, Email: infoal@alembic.co.in.

Com/21-CA(116)/2022



Page 14 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान
THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

This clearly means that Mr. Mihir Vyas partner of Diwanji & Co. was having access to data of MGVCCL and was also practicing as a Cost Accountant simultaneously along with his employment.

I request Director Discipline to kindly probe whether:

- Employment record of Mr. Mihir Vyas Partner of Diwanji & Co. during the period of Oct 2011 to April 2014.
- Whether Mr. Mihir Vyas was having Membership No. 31564 as on FY 2007-08.
- Start date of Practice as Cost Accountant by Mr. Mihir Vyas.
- In case he was in full time employment with M/s. Alembic Pharma Ltd., how he was involved in Cost Audit of M/s. MGVCCL.

The above misconduct of M/s. DIWANJI & CO. clearly attracts:

1. PART III PROFESSIONAL MISCONDUCT IN RELATION OF MEMBERS OF THE INSTITUTE GENERALLY.

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

Also for sharing data with Mr. Mihir Vyas who was neither partner nor employee for cost audit data acquired in the course of professional engagement without consent of his client.

2. PART I PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE.

(1) disclose information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of his client, or otherwise than as required by any law for the time being in force.

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

Also the above misconduct by Mr. Mihir Vyas Partner of Diwanji & Co. clearly attracts:

PART I PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE

(10) engages in any business or occupation other than the profession of cost accountant unless permitted by the Council so to engage:

PART II PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY

(1) contravenes any of the provisions of this Act or the regulations made there under or any guidelines issued by the Council;

(1) 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;

I submit my rejoinder herewith.

R.K. PATEL

Unquote

Com/21-CA(116)/2022



Page 15 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area

Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

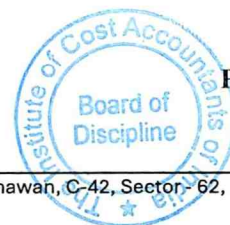
10. Investigation and Analysis

a) During the investigation, a Notice under section 21 C of The Cost Accountant Act, 1959 bearing No G/DD/Com-CA(116)/(M-14115)/03/12/2022 dated 20th December, 2022, the Disciplinary Directorate called upon the Complainant to furnish certain additional information and documents relevant to the complaint. The Complainant furnished his response vide letter dated 24th May, 2023. The queries raised and the corresponding replies are summarised below:

S. No.	Query	Reply furnished by the Complainant
(i)	Please disclose the name and address of the Tenderer organization which had floated the Tender for empanelment and selection for appointment of Cost Auditor.	Coal India Ltd, Coal Bhawan Premises, No 04, Plot No. AF-III, Action Area IA, New Town, Rajarhat, Kolkata – 700 156. Email: sidhartha.sarkar@coalindia.in .
(ii)	Please arrange to provide a certified (self-certification will suffice) a copy of the Tender document in response to which M/s Diwanji & Co., Cost Accountants have responded.	Attached
(iii)	The date on which M/s. Diwanji & Company, Cost Accountants firm had submitted its bid to the Tenderer organization.	23 rd August 2019 at 2.49 PM.
(iv)	Whether the complainant was a bidder in respect of the instant tender issued by the Tenderer organization and the outcome thereof.	Yes

b) That, a Notice under section 21 C of The Cost Accountant Act, 1959 bearing No. G/DD/Com-CA(113)/(M-41571)/1/03/2024 dated 22nd March, 2024 was issued to CMA Bhargav Girishbhai Nagar, seeking clarification regarding his association with M/s

Com/21-CA(116)/2022



Page 16 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area

Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

Diwanji & Co. (FRN: 000339). The letter referred to the allegation that the Firm had represented him as being on its rolls and to the Institute's records indicating that he held a Certificate of Practice from 2nd May, 2017 to 31st March, 2021. He was called upon to clarify whether he had, at any time, been employed by the Firm and to specify the period during which he had ceased to practise. In his email dated 22nd March, 2024, received at approximately 12:48 PM, CMA Bhargav Girishbhai Nagar denied being an employee of the Firm and stated that he provided professional services on a case-to-case basis against professional fees. He further asserted that the Firm had described him as a Cost Accountant assisting it, rather than as an employee on its rolls. According to his response, the Firm paid him professional fees after deducting tax under Section 194J of the Income-tax Act, 1961 and deposited the tax with the Government. The response received from CMA Bhargav Girishbhai Nagar is reproduced here below.

Quote

Dear Sir,

I denied the allegation strongly. I am surprised to see the allegation on very senior members and firm. I was fortunate to work with Diwanji & Co. and was providing my professional services to our firm on a case-to-case basis by charging professional fees. The firm has never claimed that CMA Bhargav Nagar is an employee of our firm or On Roll. They have shown him as one of the Cost Accountants who is assisting the firm. They have paid me professional fees, deducted applicable TDS under 194J of the Income Tax Act, 1961, and deposited the same with the Government.

With Best Regards,

B.G. Nagar & Co.

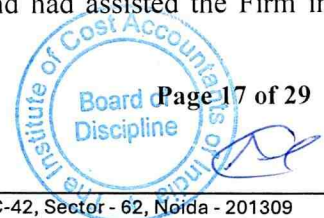
Chartered Accountants

Bhargav Nagar (M.Com, CA, CMA)

Unquote

- c) Further, Notice under section 21 C of The Cost Accountant Act, 1959 bearing No. G/DD/Com-CA(113)/(M-44490)/1/03/2024 dated 22nd March, 2024 was issued to CMA Tarlika Vijay Bariya, seeking clarification regarding her association with M/s Diwanji & Co. (FRN: 000339). The letter referred to the allegation that the Firm had represented her as being on its rolls and noted that, according to the Institute's records, she had never held a Certificate of Practice. She was requested to confirm whether she had been employed by the Firm and, if so, to specify the duration of such employment. In her email dated 22nd March, 2024, received at approximately 2:04 PM, CMA Bariya stated that she had worked with "Diwanji Sir", under "Amruta Madam", and had assisted the Firm in

Com/21-CA(116)/2022





ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

various assignments. For the sake of convenience, response received from CMA Bhargav Girishbhai Nagar is reproduced here below.

Ms. Tarika Vijay Bariya, by an email dated 22nd March 2024 received at or around 2.04 PM, responded as follows:

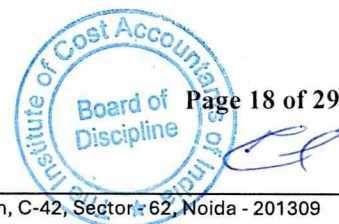
Quote

Respected Sir,
I was working with Diwanji Sir.
I was working under Amruta Madam.
I was assisting our firm in various assignments.

Yours faithfully,
CMA Tarika Bariya

Unquote

- d) On examination of their respective responses, it is observed that both CMA Bhargav Girishbhai Nagar and CMA Tarika Vijay Bariya have acknowledged their association with M/s Diwanji & Co. and their involvement in its professional assignments. CMA Nagar expressly described his engagement as being on a case-to-case basis against professional fees and denied an employer–employee relationship. CMA Bariya confirmed that she worked with the Firm and assisted in various assignments. Accordingly, their association with the Firm stands acknowledged.
11. In view of the substantially similar issues arising in proceedings pending before the Disciplinary Committee constituted under Section 21B of the Cost Accountants Act, 1959, matters concerning the disputed particulars furnished in tender documents submitted to Coal India Limited and its subsidiaries were kept in abeyance pending the Committee's determination to ensure consistency in adjudication. Following the pronouncement of the Committee's final orders in the related proceedings, the present matter was taken up for consideration.
12. **Comments from Disciplinary Directorate**
- a) The complaint dated 16th August, 2022, the Respondent Firm's written statement dated 15th September, 2022, the Complainant's rejoinder, the responses obtained during investigation and the documents on record have been examined. The allegations concern the particulars furnished by M/s Diwanji & Co. (FRN: 000339) in its bid submitted on 23rd August, 2019 pursuant to Coal India Limited's Tender No. CIL/GM(F)/2019-20/Cost Auditor/01 dated 14th August, 2019. They relate principally to the experience





ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

claimed, inclusion of qualified assistants, reliance upon work orders and experience certificates, and alleged disclosure of confidential client information.

- b) The Respondent's contentions concerning personal animosity, retaliatory proceedings and threatening communications have been noted. Further, the professional standing of the Respondent's partners and the Complainant's participation in the same tender have also been noted. However, the allegations have been assessed independently based on the evidence relevant to each allegation.

c) **Allegation-1: Fraudulent declaration of number of years of experience**

- (i) The Complainant alleges that the Respondent Firm, constituted on 27th March, 2012, incorrectly claimed fifty-four years of experience in its bid. In support, the Complainant furnished a screenshot of the relevant declaration, which disclosed the successive practice arrangements under the names M/s Bhatia & Diwanji, M/s Diwanji & Associates and M/s Diwanji & Co. The declaration expressly stated that M/s Diwanji & Co. was created on 27th March, 2012, while indicating "54 Years" against the number of years up to 31st March, 2019. The content of the screenshot of bid documents submitted by complainant is reproduced here below:

Sr. No.	Selection Criteria	
1	Year of establishment of the Firm, since the date of registration	(i) Year of Registration with ICAI: Initially, the Firm was established in Year 1966 named as M/s. Bhatia & Diwanji (Partnership Firm). After the demise of one partner, Mr. Bhatia, the Partnership Firm was converted into Sole Proprietorship firm by Mr. S.V. Diwanji named as Diwanji & Associates in the year 1999 and Later on to expand the service base new Efficient Partners were added & a new partnership firm named as Diwanji & Co. was created on 27.03.2012. (Attached as per DOC-1) (ii) Number of years till 31.03.2019: 54 Years

- (ii) The declaration must be considered in its entirety. It expressly distinguishes the earlier practice arrangements from the constitution of the Respondent Firm in 2012. The Respondent's explanation that the narrative was intended to describe the professional history of its founding partner, CMA Shirish Vaikunthlal Diwanji, finds support in the



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

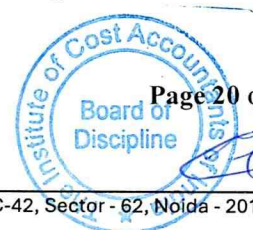
Website: www.icmai.in

accompanying disclosure and the Institute's particulars recording his commencement of practice on 8th June, 1966. Accordingly, the material relied upon by the Complainant does not establish concealment of the Respondent Firm's constitution date. This, however, does not mean that a partner's entire professional experience is necessarily attributable to the bidding firm for determining tender eligibility.

- (iii) Upon perusal of NIT documents, under Clause 1 of Part A of the selection criteria, the year of establishment of the firm since registration attracted two marks for each of the first four years and one mark for each subsequent year, subject to a maximum of ten marks. Reckoned from 27th March, 2012, the Respondent Firm had completed seven years by 31st March, 2019. On the stated marking formula, this yielded eleven marks and with the application of the ceiling, the maximum permissible score of ten marks. Thus, even upon excluding the entire period preceding its constitution in 2012, the Respondent Firm qualified for the maximum marks under this criterion.
- (iv) The reference to fifty-four years, therefore, could not have enhanced the Respondent Firm's permissible score under the aforesaid criterion. Although the absence of an additional scoring advantage does not, by itself, establish the accuracy of every statement in the bid, it is a relevant circumstance when considered alongside the express disclosure of the Firm's constitution date and the explanation concerning the founding partner's professional history.
- (v) On a cumulative consideration of the declaration as a whole, the supporting particulars concerning CMA Diwanji's professional history, the express disclosure of 27th March, 2012 as the Respondent Firm's constitution date, and its independent entitlement to the maximum marks from that date, the material does not sufficiently establish that the Respondent knowingly furnished false particulars to obtain an unwarranted scoring advantage. Accordingly, Allegation No. 1 is not prima facie established on the material available on record. This conclusion is confined to the allegation and selection criterion examined above.

d) Allegation-2: Fake and fraudulent list of employees

- (i) It is alleged that, while participating in the tender floated by Coal India Limited, the Respondent Firm furnished particulars of eleven fully qualified assistants and misrepresented the employment status of CMA Bhargav Nagar and CMA Tarlika





ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

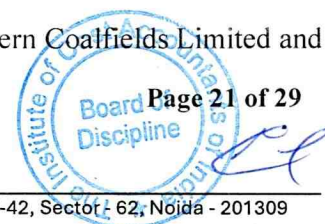
CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

Bariya, thereby submitting false or fraudulent particulars for securing the professional assignment.

- (ii) The Respondent denies the allegation and submits that the expression “Fully Qualified Assistants” did not necessarily denote full-time employees and could include qualified professionals engaged for particular assignments. It explains that CMA Bhargav Nagar rendered professional services on a case-to-case basis against professional fees, subject to deduction of tax under Section 194J of the Income-tax Act, 1961. Regarding CMA Tarlika Bariya, the Respondent specifically denies that her name appeared in the relevant list. The Complainant has not controverted the assertion in regard to CMA Tarlika Bariya in the rejoinder. Independently, examination of the screenshot of the bid particulars furnished by the Complainant shows that her name does not appear therein. Consequently, the allegation concerning the misrepresentation of her employment status is not supported by the bid particulars relied upon by the Complainant.
- (iii) In the responses obtained during the connected investigations, CMA Tarlika Bariya confirmed that she had worked with M/s Diwanji & Co. and assisted in its assignments. Such acknowledgment establishes an association but does not establish that her particulars were included in the disputed bid. Separately, CMA Bhargav Nagar expressly acknowledged rendering professional services to the Firm on a case-to-case basis and denied the existence of an employer–employee relationship. His response corroborates the Respondent’s explanation concerning the nature of his engagement and supports the existence of a genuine professional association.
- (iv) The material question is whether, under the tender conditions applicable on the date of submission of the bid, inclusion in the category of “Fully Qualified Assistants” necessarily required full-time employment, or whether the Respondent expressly represented these professionals as its employees. The absence of an employer–employee relationship cannot, in isolation, establish falsity where the professional association itself is acknowledged.
- (v) In this regard, reference has been made to the findings/orders of the Disciplinary Committee in Complaint Nos. Com/21-CA(108)/2022 and Com/21-CA(109)/2022, concerning the inclusion of associated professionals in tender documents for the empanelment and selection of Cost Auditors of South Eastern Coalfields Limited and

Com/21-CA(116)/2022





ICMAI

भारतीय लागत लेखाकार संस्थान

**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**

Statutory Body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area

Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

Coal India Limited. The reasoning relied upon therein was that, in the absence of a specific definition in the applicable tender conditions or contemporaneous Institute guidelines, the term “associate” could not necessarily be confined to a full-time employee. An acknowledged professional association on a retainer, assignment-to-assignment or similar basis could fall within the description of an associate.

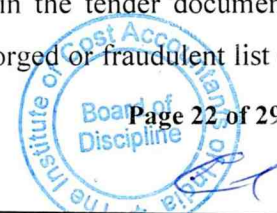
(vi) From the perusal of documents on record, it appears that the present matter concerns the empanelment and selection of Cost Auditors for Coal India Limited, bid submission dated is 23rd August, 2019. The standard tender documents adopted by South Eastern Coalfields Limited did not, at the relevant time, define the term “associate”. Further, the Institute’s Guidelines for Members on Use of Firm Name and Submission of Tender Documents dated 27th February, 2025 were not then in force. The specific requirements subsequently introduced by those Guidelines cannot, by themselves, establish misconduct in respect of an earlier representation

(vii) The material furnished by the Informant indicates that the bid in question was submitted on 23rd August, 2019. No contemporaneous tender stipulation or Institute guideline has been identified in the material under consideration which required the professionals included in the relevant category to be exclusively full-time employees of the bidder. The Institute’s Guidelines for Members on Use of Firm Name and Submission of Tender Documents dated 27th February, 2025 were not in force on the date of submission of the bid, and the requirements subsequently introduced therein cannot, by themselves, establish misconduct in respect of the earlier representation.

(viii) In the present matter, CMA Bhargav Nagar has acknowledged his association with the Respondent Firm. The fact that he was engaged on assignment to assignment basis, rather than as employees, does not, by itself, establish that their inclusion among the qualified assistants was false or fraudulent. Such a conclusion would require material demonstrating that the relevant tender category necessarily required employment or that the Respondent had expressly misrepresented them as employees. The material under consideration does not establish either circumstance.

(ix) Accordingly, considering the acknowledged professional association, the material available on record and the reasoning adopted by the Disciplinary Committee in the aforesaid matters, the inclusion of CMA Bhargav Nagar in the tender documents does not tantamount to constitute the furnishing of a fake, forged or fraudulent list of

Com/21-CA(116)/2022



Page 22 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area

Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

employees. Allegation No.2 is, therefore, not established against the Respondent on the material available on record

e) **Allegation-3: Fake work order shown as experience**

- (i) The Complainant alleges that the Respondent Firm, constituted on 27th March, 2012, submitted work orders and experience certificates pertaining to assignments undertaken by individual professionals or other firms and misrepresented such assignments as its own experience. In particular, it is contended that M/s Diwanji & Associates held a separate firm registration number and that its experience could not be attributed to M/s Diwanji & Co. merely on account of common partners or professional association.
- (ii) The Respondent denies having submitted fabricated documents or knowingly furnished false particulars. It is submitted that the work orders and appointment letters were copies of documents issued by the respective clients and were furnished to demonstrate the professional experience of the partners and associates, with express disclosure of the persons to whom the assignments pertained. In support, the Respondent refers to the appointment of CMA Rohit Vora as Cost Auditor of Western Coalfields Limited for the financial year 2012–13 and his association with the Respondent Firm as a partner.
- (iii) It is observed that clause 3, Part A, Serial No. 4 of the tender provides for the award of marks for the firm's experience in conducting statutory cost audits. Note (i)(e) following the selection criteria requires an appointment or engagement letter, or other evidence clearly establishing the firm's engagement as cost auditor of the company concerned. These requirements govern the eligibility of experience for tender evaluation. Evaluation and assessment of such eligibility must, however, be distinguished from the authenticity of the supporting documents and the accuracy of the representations accompanying them. An authentic document may not establish qualifying experience; conversely, its inadmissibility for evaluation does not, by itself, establish that the document is not authentic, implying fabrication or misrepresentation.
- (iv) Upon examination of the twenty-three experience entries as provided in compliant and the accompanying documents referred to in the complaint and rejoinder, it is





ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area

Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

observed that the Respondent disclosed the client companies, the relevant periods of experience, the partners to whom the experience was attributed and the corresponding supporting document references. The appointment letters identified the professionals or firms in whose favour the appointments had been issued, consistent with the attribution appearing in the respective entries. The identities of the actual appointees were thus disclosed and available for scrutiny for tendering approving authority.

- (v) The material on record does not disclose fabrication or alteration of the work orders or falsification of the identities of their recipients. The Complainant's objection principally concerns the distinction between the Respondent Firm and the professionals or firms named in the supporting documents. The material relating to experience for the eligibility claimed may be of relevance or not, but it does not, by itself and without further evidence, establish that the documents were fake or that their contents were knowingly misrepresented. The express attribution of the assignments, read with the corresponding appointment letters, supports the Respondent's explanation that the documents were submitted to disclose the professional experience of its partners and associates.
- (vi) Neither party has produced the tender evaluation record showing whether, or to what extent, marks were awarded for the disputed assignments. Its absence neither validates the experience claimed nor excludes the possibility of misconduct. The issue for consideration is whether the representations actually made, read as a whole with the supporting documents, disclose a prima facie case of the alleged misconduct. On the material under consideration, no specific inconsistency between the attribution of an assignment in the experience statement and the corresponding appointment letter has been demonstrated.
- (vii) A materially different consideration could arise if assignments undertaken by other professionals or firms were represented as the Respondent Firm's own experience without disclosure of the actual appointees. In the present case, however, the experience entries identified the companies, the relevant years, the partners to whom the experience pertained and the supporting document references, and were accompanied by the relevant documents. Whether such experience qualified for





ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

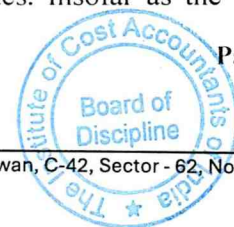
Website: www.icmai.in

eligibility depended on the tender conditions and as determined by the appropriate Tender Approving Authority.

- (viii) The assertions made in the rejoinder concerning CMA Mihir Vyas's employment with M/s Alembic Pharma Ltd. from October, 2011 to April, 2014 are noted. Any independent allegation regarding the permissibility of his professional activities during such employment constitutes a distinct matter requiring examination in accordance with the applicable procedure; accordingly, no finding on its merits is recorded herein. However, as the alleged acts are stated to predate the complaint by more than eight years, and therefore, is barred by limitation by virtue of Rule 12 of the Cost & Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules.
- (ix) Accordingly, having considered the allegation, the Respondent's explanation, the relevant tender conditions and the disclosures contained in the experience entries and supporting documents, the material on record does not disclose a prima facie case of submission of fake or fabricated work orders, knowing misrepresentation of the identified assignments, or failure to exercise due diligence in the respects alleged. This conclusion is confined to the alleged misconduct and does not constitute a determination that the disputed experience qualified for marks under the tender conditions.

f) **Allegation-4: Leakage of confidential information to other cost accountants**

- (i) The allegation, as framed, concerns the submission of experience certificates relating to the Respondent Firm's partners and associates as supporting documents in the bid. The mere submission of such certificates does not, ipso facto, establish unauthorised disclosure of information acquired in the course of a professional engagement. The contents of the documents and the circumstances of their disclosure must be examined to determine whether any breach of confidentiality occurred.
- (ii) The documents underlying this allegation have also been considered under Allegation No.3. The Respondent submitted the experience certificates to substantiate the experience particulars furnished in its bid for scrutiny by the Tender Approving Authority under the Notice Inviting Tender. The material on record does not establish that confidential cost audit reports, cost data or other protected client information were disclosed through those certificates. Insofar as the identity of a





ICMAI

भारतीय लागत लेखाकार संस्थान

**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area

Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

company's cost auditor is concerned, it was already disclosed in its publicly available Board's report or other corporate disclosures, and therefore, repetition of that information would not, by itself, establish a breach of confidentiality. This observation does not extend to any non-public information contained in the supporting documents.

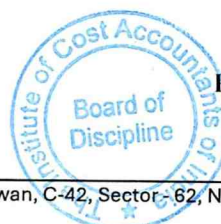
- (iii) The allegation must nevertheless be assessed independently of the conclusion reached under Allegation No.3. On the material available, no specific instance of unauthorised disclosure has been substantiated beyond the submission of the experience certificates itself. Accordingly, the submission of those certificates, without further material establishing a breach of confidentiality, is insufficient to sustain the allegation. Allegation No.4 is, therefore, not prima facie established against the Respondent on the material available on record.

13. Findings and Order of the Board of Discipline

- (a) The Board of Discipline has independently considered the complaint, written statement of the Respondent, rejoinder of the Complainant, comments of the Director (Discipline), documents and other material available on record, and the provisions of the Cost Accountants Act, 1959 and the Rules framed there under.
- (b) Upon independent consideration of the record, the allegation wise observation of Board of Discipline is as under:

S. No.	Allegation	Findings of the Board
1	Fraudulent declaration of fifty-four years' experience	The Board notes that the bid expressly disclosed 27 th March, 2012 as the Respondent Firm's constitution date and separately described the founding partner's professional history. Reckoned from the disclosed constitution date alone, the Firm qualified for the maximum marks under the relevant criterion. Although this does not validate the numerical declaration of fifty-four years, the disclosure, read as a whole, does not sufficiently establish knowing falsity. The allegation is not

Com/21-CA(116)/2022



Page 26 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



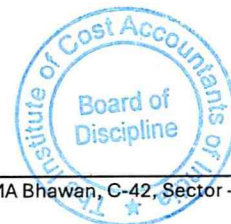
Headquarters:

CMA Bhawan, 3, Institutional Area
Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

		prima facie established.
2	Submission of a fake or fraudulent list of employees	CMA Tarlika Bariya's name does not appear in the disputed list relied upon by the Complainant. CMA Bhargav Nagar has acknowledged his professional association with the Respondent, although he denied an employer-employee relationship. The material does not establish that the relevant category necessarily required full-time employment or that the Respondent expressly represented him as an employee. Having regard to the reasoning adopted by the Disciplinary Committee in Complaint No. Com/21-CA(108)/2022 and Com/21-CA(109)/2022 on substantially similar facts, and in the absence of material establishing a false representation of employment, the Board finds that this allegation is not established.
3	Submission of fake work orders as evidence of experience	The experience entries and supporting appointment letters disclosed the professionals or firms to whom the assignments belonged. No fabrication, alteration or contradiction in that attribution has been demonstrated. Whether particular assignments qualified as the Respondent Firm's experience for tender evaluation is distinct from whether their particulars were knowingly falsified. On the evidence considered, neither knowing misrepresentation nor failure to exercise due diligence in the respects alleged is sufficiently established. The allegation is not prima facie established.

Com/21-CA(116)/2022



Page 27 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान

THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area

Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

4	Unauthorised disclosure of confidential information	The Board has examined this allegation independent of Allegation No.3. Submission of experience certificates to substantiate bid particulars does not, by itself, establish unauthorised disclosure of client information. The material considered does not identify and substantiate any confidential cost audit report, cost data or other protected information disclosed through those certificates. This conclusion does not presume consent from professional association or networking. The allegation concerning disclosure of client information through the bid documents is not prima facie established.
---	---	---

(c) In view of the above facts and circumstances, the Board agrees with the findings/comments of the Director (Discipline) that no prima facie case of professional or other misconduct is made out against the Respondent. The case is, therefore, dismissed and the matter stands disposed of accordingly.

(d) Accordingly, in exercise of powers conferred under section 21A(4) of Cost Accountant Act, 1959 read with Rule 9(3)(a) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Board hereby orders that the proceedings against MM & Associates (FRN: 000454) be dropped, and the case stands closed.

(e) The information is, therefore, disposed of accordingly.

A. Goswami

CMA Avijit Goswami

(Member)

P.K. Pujari

Shri P.K. Pujari, IAS (Retd)

(Presiding Officer)

Place: New Delhi

Date: 15th October, 2026

Com/21-CA(116)/2022



Page 28 of 29



ICMAI

भारतीय लागत लेखाकार संस्थान

**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**

Statutory Body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)



Headquarters:

CMA Bhawan, 3, Institutional Area

Lodhi Road, New Delhi - 110 003

Website: www.icmai.in

Distribution under Rule 15(3) of the Rule

- 1) Director(Discipline), The Institute of Cost Accountants of India
- 2) Complainant, CMA Rajubhai Kantilal Patel (M/14115)
- 3) Respondent, M/s Diwanji & Co. (FRN: 000339)

