



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/2026/63

Complaint number	Com/21-CA(117)/2023
In the matter of	M/s D. C. Dave & Co. (FRN/000611) [Complainant] Vs. M/s Diwanji & Co. (FRN/000339) [Respondent]
Date of Hearing	As per records and order sheet
Date of order	30 th September, 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)
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Brief of the Case

- The Disciplinary Directorate is in receipt of a complaint in Form I dated 11th January, 2023 in triplicate together with the prescribed complaint fee of Rs 2950/- (inclusive of GST) from M/s D. C. Dave & Co. (hereinafter referred to as the "complainant"), bearing FRN 000611 against M/s Diwanji & Co. (hereinafter referred to as the "respondent") bearing FRN 000339, containing certain allegations against the respondent falling under various provisions of the Cost Accountants Act, 1959.
- The complaint consists of 03 pages, accompanied by annexure. The Form I is reproduced below in verbatim:

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)	D.C. DAVE & CO FRN 000611
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2.	Name of the member/firm against whom complaint is being made: (With membership number/registration number of the firm, if known)	Diwanji & Co FRN 000339
3.	Latest address of the complainant for communication	1101 DALAMAL TOWER NARIMAN PT MUMBAI PIN CODE 400021
4.	Last available professional address of the member or the firm against whom the complaints is made	111 OFFTEL TOWER R C DUTT ROAD ALKAPURI VADODARA PIN CODE-390007
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.	1. clause (6) Part I of first schedule 2. clause (8) Part I of first Schedule of Sec 21(4) & 22J 3. As above; 4. As above.
6.	Particulars of evidence(s) adduced in support of the allegation(s) made	Extract of Board Resolution.
7.	Name(s) of person who have knowledge of the facts of the case.	Then partner Ms Zarnan Shah (M/45876)

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

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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(117)/2023.

4. The complaint dated 11th January, 2023 was duly forwarded to the respondent vide letter No. G/DD/Com-CA(117)/(FRN 000339)/01/02/2023 dated 20th February, 2023 calling upon the Respondent to submit a written statement in terms of Rule 8(3) of The Rules, 2007 within 21 days from the date of service of the letter under reference.
5. The Respondent, vide letter dated 13th March, 2023, submitted his defence statement comprising 15 pages (including annexure), along with an authorisation letter duly executed by all the partners of the Respondent firm, authorising CMA S. V. Diwanji to represent the firm in the present proceedings. The defence statement is reproduced hereunder verbatim:

Quote

SUB: Response to the Complaint No. M/S D.C. Dave & co. (FRN 000611)
[Complainant] Vs. Ms/Diwanji & Company, Cost Accountants (FRN 000339)
(Respondents)

Ref: G/DD/Com-CA (117)/FRN000339)/01/02/2023 dated 20-02-2023

Respected Sir,

We Diwanji & Co. (FRN 000339) are receipt of the above referred latter from your end. Myself CMA Shirish Diwanji (M/753), being one of the partners of the firm will be responsible for answering the sent complaint and that the particulars of acts of commission or omission or the copy of the complaint to our firm. Cost & Management Accountant

I, CMA Shirish Diwanji (M-753), a partner of Diwanji & Co., Cost Accountants {FRN: 00339} would like to respond to the said complaint on behalf of the firm.

Now I would like to file defence statement on behalf of the firm M/s Diwanji & Co. Cost Accountants:

1. At the outset, we deny all allegations levelled by firm M/s D C Dave & Co. [FRN -000611] against our 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.
2. The complaint is defective as the resolution/authorization of firm D C Dave & Co.'s partners is missing as a part of Form-1 as required under Rule 3(4) of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. Hence, the complaint should have been dismissed without any proceeding. However, when you have proceeded with the complaint, I would like to file our further response for your records and further action, if any.
3. As per letter dated 11th January, 2023, the firm has defined our misconducts in 6 paras (and has referred all these paras in para 5 of form I). Our response to these

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paras is as under:

Allegation 1: Soliciting the Cost audit assignment actively in violation of clause (6) of Part I of First Schedule of the ICAI Act. The firm though its partners actively solicited cost audit assignment from the company National Peroxide Ltd.

Kindly note that the allegation is baseless and factually incorrect. In the month of June 22, one of our partners received a phone call identifying as a company representative and asked that whether our firm would like to work as Cost Auditors of a Company called National Peroxide Ltd based at Mumbai and if you are interested, please send your profile. We submitted our profile.

Thereafter, there was no communication from company's end. We also did not do any follow up and assumed that it was merely an inquiry.

All of a sudden, on 2nd August, we received a mail from company's representative asking us to provide following documents:

- Profile of the firm;
- Profile of the engagement/signing partner;
- Credentials specifically with reference to experience with Chemical Industry; and
- Presentation to be made at the meeting by the engagement/ Signing partner

Mr. We responded on 5th August, 22. On 8th August, 2022 we received a mail referring a mail of a Mr. Conrad Fernandes<conrad.frenandes@naperol.com> containing a link to join NPL Audit Committee Meeting with note that exact timings will be informed later. (A copy of the mail is attached herewith vide Annexure -1 to this letter).

We were not invited to join the said meeting and no further communication was received from company's end. Hence, after a pause of some time, we inquired with the company about the status of our appointment as cost auditor of the company. We were orally conveyed that our appointment has been made. We requested company to provide us a copy of the CRA 2 and its challan.

Further, we had asked for our fees of Rs. 5 lakhs against the fees of Rs. 4.5 lakh of previous auditors. This is also a one of the corroborative evidence that we have not indulge in any unethical practice.

Thus, it is very clear that we have not solicited any business and have violated clause 6(i) of the Part 1 of First Schedule Professional Misconduct in Relation to Cost Accountants in Practice. Kindly note that Clause 6(ii) of the said schedule is not applicable as refers to violation in connection with tender activity which is not relevant in instant case.

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Allegation 2: "Accepted a position as cost accountant previously held by another cost accountant in practice without first communicating with him in writing." The firm M/S Diwanji & Co accepted position of the cost auditor with National Peroxide Ltd without making any communication with the previous cost audit firm M/S D C Dave & Co. The respondent firm Diwanji was appointed by the company in the board meeting dated August 9 2022 and no communication has been made to the previous cost auditor till date. This is in violation of clause (8) Part I of First Schedule u/sections 21(4) and 22J.

Once, we received oral confirmation from the company, we conveyed our appointment to M/s D C Dave & Company.

We requested company to provide us a copy of CRA 2 along with challan to confirm our appointment and simultaneously, we sent a written communication dated 23-10-2022 to D C Dave & Co. by Pawan Couriers vide Ref no 17930 dated 23-10-2022. There was delay in posting on account of Diwali vacation in Gujarat, the courier was sent on 31-10-2022. A copy of the receipt of Courier is attached herewith vide Annexure-2

Subsequent to this, in the month of Dec 22, we had telephonic conversation with M/s DC Dave & Co during which we were informed that the communication sent earlier by us in the month of Oct-23 was not received. Hence, we sent the copy the earlier letter by speed post on 16th December, 2022 vide R.No. EG100289815IN. (a copy of the said receipt and Tracking report as downloaded from India Post website is also attached vide Annexure -3 to this letter. It is interesting to note that this speed post was received by D C Dave and Co. on 19th December, 2022 and this complaint is filed on 11th January, 2023 i.e. after 23 days.

This, once again, simply proves that this complaint is baseless, made with malicious intention and needs to be quashed without any delay.

Allegation 3: The extract of the board resolution appointing Diwanji & Co is enclosed herewith. This may be considered as evidence adduced in support of the allegation made.

This is not an allegation. It is so-called evidence. Learned CMA has attached an extract of the Annual Report of the Company claiming that it is an extract of the Board Resolution!

Anyway, we are not denying our appointment. But, the point is wrong representation to Directorate.

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Allegation 4: The extract of Annual Report of National Peroxide Ltd showing D C Dave & Co as previous cost auditor for FY 21-22 is enclosed herewith. This also may be considered as evidence adduced in support of the allegations made.

This is also not an allegation. It is so-called evidence. We have never denied their earlier appointment.

Allegation 5: Such types of misconduct is a serious misconduct as it undermines our profession by not complying with the rules and regulations set up by our esteemed Institute.

This is an imprecise and general allegation. We have provided sufficient proofs about our innocence against the precise allegations.

Allegation 6: The then partner of D C Dave & Co Ms Zarna N Shah (M/45876) is aware of this misconduct and the first person to inform the firm about this misconduct.

This is also not an allegation. If Ms. Zarna N Shah [M/45876] has any proof in respect of the allegations, kindly ask her to submit her statement and we shall be allowed to have her cross examination without fail.

Further, we would like to place on record that DC Dave & Co. has used words- "**The then partner of D C Dave & Co** Ms Zarna N Shah (M/45876) is aware of this misconduct....".

Membership no 45876 belong to Ms Zarna Pankaj Thakar. About her following details are available on Institute's website:

Webpage -Certificate of Practice of Ms. Zarna: (Please refer Annexure: 4)

- a. Ca. COP Valid up to 31-03-23
- b. Firms:
 - a. FRN-000611 DC Dave & CO. Constitution Date 11-04-2016, Last Reconstitution Date- 30-03-2021
 - b. FRN 005956 Zarna Thakar & Associates-Constitution Date-**20-02-2023**

If Ms Zarna is not a partner of DC Dave & Co as on the date of this complaint 11-01-2023, then:

- i. Why CMA DC Dave has mentioned her as a 'The Then' partner (From 30-03-2021 to till date)?
- ii. As per the Institute's guidelines for COP, whenever, a member applies for COP, one proprietary firm is always created either in personal name or as opted by the member. In this case, Ms. Zarna's date of proprietary firm is 20th February, 2023. This indicates that either Ms. Zarna has surrendered her COP or she has taken COP on 20th February, 2023 only.
- iii. We are sure that Institute has not made any blunder in reporting the data.

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there is no mistake on part of Institute, CMA Dave has got some other ulterior motive in filling this complaint.

Based on the above corroborative evidences, it proves that CMA DC Dave has made factually incorrect statement before the Disciplinary Directorate. This is nothing but a misleading statement under oath/verification while filing form I of this complaint. It is an offence under para (3) of Part -II of the Second Schedule to the section 21(3), Section 21B (3) and section 22 of the CWA Act, 1959 which reads:

"includes 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 particular knowing them to be false;"

4. We have a strong feeling and reason to believe that the complaint has a link with the group of persons who have made numerous RTIs and disciplinary complaints against the some of the elected members of Baroda Chapter including our partners and firm.

5. OUR PRAYER

Based on the above referred discussions and our counter evidences placed before you, it clearly emerges that:

1. This complaint is as a part of conspiracy only.
2. We have not solicited business. We have only responded to the inquiry/requests made by the company.
3. We have informed the complainant about our appointment as cost auditors twice.
4. The complainant has even given wrong information to the Directorate that Ms. Zarna N Shah [M/45876] was 'The Then partner of the Firm' DC Dave & Co. whereas she is still a partner of the firm as per the records of the Institute. This needs stringent actions against the complainant under CWA Act, 1959.

Considering the above facts, we earnestly, Pray to you to:

1. Set aside the case immediately.
2. Treat this defence statement as an information under Section 21(2) of the Cost and Works Accountants Act, 1959 against CMA DC Dave & Co [FRN 000611] for providing wrong information to the Director (Discipline) and Institute. Please guide us and at the same time we reserve all our legal rights.
3. Directorate shall investigate all relevant cases filed against us summarily and take appropriate legal actions against such anti-social professionals. All actions by the said group are leading to waste of time and energy of the persons involved in disciplinary mechanism of the Institute which is meant for the justice and not for settling election rivalry. Your such action will become an example to have deterrent effect on persons making false complaints to harass innocent members

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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 Shirish Diwanji
Partner
M-753

Unquote

6. The defence submission dated 13th March, 2023 was duly forwarded to the complainant under the cover of letter No. G/DD/Com-CA(117)(M-7759)/2/05/2023 dated 24th May, 2023 calling upon the complainant to submit a rejoinder in terms of sub-rule (4) of Rule 8 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
7. The Complainant, vide letter dated 9th June, 2023 submitted his Rejoinder containing of 3 pages, The rejoinder submitted by complainant is reproduced below in verbatim:

Quote

Sub: Complaint No Com/21-CA(117)/2023- M/s DC Dave & Co (FRN 000611) vs M/s Diwanji & Co (FRN-000339) [Respondent Firm]

Ref No.: G/DD/Com-CA(117)/M-7759)/2/05/2023 dated May 24 2023

Please refer to your letter referenced above dated May 24 2023 received by us on 2/6/2023 regarding the subject matter.

The said letter has enclosed the written statement submitted by the respondent on March 13 2023 and the same has been forwarded to us by your letter dated 24/5/2023 and delivered to me on 2/6/2023. The delay in timeliness by the Institute needs to be seriously noted.

The said letter has now sought rejoinder from our firm and we proceed to submit the rejoinder point by point as under: The numbering of the following points are in reference to the numbers mentioned in the written statement of the Respondent so as to have easy reference.

Rejoinder to:

Point 1.0:

The respondent begins with a strange statement that our complaint is based on political vendetta and revenge. Both these motives have no relevance in our

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complaint. We have never interacted with the respondent or its partners in any manner at all nor we know them.

Point 2.0:

The respondent alleges absence of authorisation which is false. We have given all the authorisation to the Institute along with our complaint.

Point 3.0:

Allegation 1: Clause (6) violation by the respondent: The respondent has created a story of the client approaching him without any evidence. The client is based in Mumbai and the Respondent is based in Vadodara. Any company or client will always first try to call to Mumbai based Cost Audit firms and not outstation which will only increase their audit costs. There is no evidence to this story. We stand by our complaint that the Respondent solicited the Cost Audit work in violation of Rule (6).

Further the Respondent itself admits that it was approached by the company by email on 2nd August 2022 and it gave its profile to company on 8th August 2022 for appointment on 9th August 2022! That very time the Respondent was bound to inform the Complainant about this approach.

Allegation 2: Violation of clause (8) of Part I of First Schedule u/s sections 21(4) and 22J: The Respondent has mischievously hidden the date on which he received the communication of the firm appointment as Cost Auditor though the firm was appointed on 9th August 2022. No company not less than a listed company like National Peroxide Ltd will pass resolution in Board and put for AGM without receiving Eligibility and Consent Letter from the Cost Auditor. The Respondent has failed miserably to answer why there was no communication to the Complainant from the date of 2nd August till 23-10-2022 (which D C Dave & Co never received) and till 16/12/2022. This is a clear violation of the stated clause without any doubt or dispute. The dates of communication to the previous cost auditor is well confirmed by the Respondent himself in his written submissions. This also proves that the Respondent never communicated with the complainant not only when he was approached but even when his firm was appointed.

Allegation 3: The extract of board resolution had to be taken from Annual Report as evidence as the complainant can have no access to Board Resolution copy. It is very much an evident clearly showing date of appointment of the Respondent via-a-vis date of communication to previous auditor. The response of the Respondent is to distract and mislead the Disciplinary Committee (DC).

Allegation 4: The extract of precious Annual Report was given as evidence to show that the Complainant was the previous auditor of the company. The respondent is trying to mislead and distract the DC.

Allegation 5: We maintain that such types of misconduct is a serious misconduct as it undermines our profession by not complying with the rules and regulations set up by our esteemed Institute. The Institute has made it mandatory on the part of every Cost Accountant, in case he accepts a position as a Cost Accountant previously held

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by another Cost Accountant in Practice as per the prescribed format. This prescribed format requires such Cost Accountant to communicate as soon as he/she is approached by the company which seeks to appoint the new Cost Accountant. This prescribed format is reiterated by the Institute in various correspondences and the latest was as recently as on 26/5/2023 vide Institute letter ref G/128/05/2023. The Institute has even a Notification no. G/128/10/2022(3) dated 25th October 2022 making it mandatory to communicate. Any violation thereof is considered as a violation under Clause (8) Part I Schedule I of the Cost and Works Accountants Act, 1959. The said letter of the Institute dated 26/5/2023 is also closed for ready reference for the DC.

Allegation 6: The comment by the Respondent on Ms Zarna Shah ex partner of the firm is irrelevant and made to distract the Institute DC from the main point of the complaint. The data submitted on Ms Zarna Shah as a partner of the firm and her resignation are allegedly on record. In any case the firm has authorised Mr D C Dave to sign the complaint and not Ms Shah. The so-called offence alleged by the Respondent is false baseless and with only motive to somehow retaliate to the genuine complaint filed by the complainant. The Respondent has even tried to demean and degrade this august Institute by alleging that he hoped that the Institute has not made any blunder ! (Page 6 of the Respondent reply). There is no misinformation given in the complaint whatsoever. The resignation of the then Partner was attached while reconstituting our firm DC Dave & Co and is on record for the date of resignation.

Point 4.0:

The feeling of the Respondent that our complaint has a link with some group of persons is sadly misplaced. Our firm or partners are hard core professionals and have neither time nor inclination to work with any group to file complaints. This is a serious malafide lapse on the part of the Respondent to not bother about informing the previous cost auditor and flout the codes of conducts laid down by the Institute to protect the image and reputation of the Institute and its professional members. The least expected from the Respondent was to simply apologise and assure of no such repetitions in future. Instead the Respondent under desperation has chosen to level imaginary allegations devoid of facts.

Prayer of the Respondent on page 6 and 7: The Respondent prayer is to set aside this case for which we strongly object as the violation is proved beyond any doubt and duly admitted by the respondent. Even the delay of two months is explained by him as Diwali vacation! The Respondent also prays to consider other cases of complaint for which we have no comment to make nor we are concerned with any other case and strongly object to the reference to third party cases in the written submission of the Respondent.

With Regards
For D C Dave & Co
D C Dave Partner
FRN 000611
Total pages 3 (three).

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Encl: Institute letter showing notification dated 16/12/2022.

Unquote

8. Investigation and analysis

- a) A notice dated 6th December, 2023 was issued under Rule 8(5) to CMA Zarna Shah, raising six queries by the Disciplinary Directorate concerning the partnership in M/s D. C. Dave & Co., and requiring submission of a response within a period of ten days. In compliance thereof, CMA Zarna Shah, vide letter dated 19th December, 2023, submitted her reply to the said notice. The queries raised and the responses thereto are reproduced hereunder:

Sl. No.	Query	Reply of the Respondent
1	Were you at any time a Partner in the firm M/s D. C. Dave & Co., Cost Accountants bearing Firm Registration No. FRN-000611?	Yes, I was engaged as a Partner of the firm M/s D. C. Dave & Co.
2	If your answer to (a) is affirmative, please mention the duration during which you were a Partner of M/s D. C. Dave & Co.	I was engaged as a Partner from 30.03.2021 to 18.12.2022 I subsequently resigned from the said partnership firm.
3	When did you first obtain your Certificate of Practice (COP)?	I first obtained my COP on 07.01.2019 under the firm name M/s Zarna N. Shah & Co. (FRN-002953).
4	Do you still hold a COP?	I had surrendered the COP of M/s Zarna N. Shah & Co. (FRN-002953) and have subsequently reapplied for COP.
5	If your answer to (d) above is in affirmative, please provide details of Proprietary/Partnership firm(s), if any, along with respective Firm	I have reapplied for COP and am currently holding COP under M/s Zarna Thakar & Associates (FRN-005956).

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Sl. No.	Query	Reply of the Respondent
	Registration Numbers.	
6	Did you at any time surrender your COP? If so, provide details thereof.	Yes, I surrendered the COP of M/s Zarna N. Shah & Co. (FRN-002953) on 13.02.2023, as per guidance from the Membership Department of the Institute, due to personal reasons.

- b) A further notice dated 12th April, 2024 u/r 8(5) was issued to CMA Zarna Shah, containing another five queries raised by the Directorate of Discipline regarding the partnership in M/s D. C. Dave & Co., In response thereto, CMA Zarna Shah, vide letter dated 24th April, 2024, submitted her reply to the aforesaid notice. The queries raised and the corresponding responses are tabulated hereunder:

S. No.	Query	Reply of CMA Zarna Shah
1	Who were the Cost Auditors of National Peroxide Ltd for FY 2021-22 and FY 2022-23?	M/s D. C. Dave & Co. were the Cost Auditors for FY 2021-22, and M/s Diwanji & Co. were the Cost Auditors for FY 2022-23, to the best of my knowledge.
2	If the Cost Auditors for FY 2021-22 and FY 2022-23 were/are different, please provide their names.	Please refer to the response to Query No. 1 above.
3	Please provide whether there was any violation by the Cost Auditors appointed for FY 2022-23 of Clause (8) of Part I of the First Schedule to the Cost and Works Accountants Act, 1959.	The administrative work relating to appointment of the firm, including submission of proposal, follow-up for filing of CRA-2, and attending Board meetings, was handled by the senior partner, CMA Dushyant Dave. The

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S. No.	Query	Reply of CMA Zarna Shah
		Respondent came to know about the change of Cost Auditor for FY 2022-23 upon reading the Annual Report of the Company for FY 2021-22, after completion of the audit. The same was informed to the senior partner. The Respondent has stated that she is not aware of any violation by the Cost Auditors appointed for FY 2022-23.
4	If the answer to Query (3) is in the affirmative, please provide details of such violation.	Not Applicable.
5	If the answer to Query (3) is negative, please provide details thereof.	Not Applicable.

- c) A notice dated 12th April, 2024, followed by a reminder dated 22nd May, 2024, was issued under Rule 8(5) to National Peroxide Ltd., seeking clarification on the appointment of the Cost Auditor for the Financial Year 2021-22 through six specific queries raised by the Disciplinary Directorate. In response thereto, National Peroxide Ltd., vide letter dated 24th April, 2024, submitted its reply comprising two pages. The queries raised and the responses thereto are tabulated hereunder:

Sl. No.	Query	Response of the Company (Naperol Investments Limited)
1	Who were the Cost Auditors of National Peroxide Limited for FY 2021-22 and FY 2022-23?	The Company appointed M/s D. C. Dave & Co. as Cost Auditors for FY 2021-22 and M/s Diwanji & Co. for FY 2022-23.
2	Has there been a change in Cost	Yes. Kindly refer to the response to

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Sl. No.	Query	Response of the Company (Naperol Investments Limited)
	Auditors of National Peroxide Limited for FY 2022-23?	Query No. 1.
3	If yes, please provide the reasons for change in Cost Auditors for FY 2022-23.	Upon completion of the tenure of the erstwhile Cost Auditors (M/s D. C. Dave & Co.), the Board of Directors, in its meeting held on 09.08.2022, appointed M/s Diwanji & Co. as Cost Auditors for FY-2022-23.
4	Please provide the names of Cost Auditors for FY 2019-20 and FY 2020-21.	M/s D. C. Dave & Co. were appointed as Cost Auditors for FY 2019-20 and FY 2020-21.
5	In case of change in Cost Auditors for FY 2022-23, please state whether the incoming Cost Auditors communicated in writing with the previous Cost Auditors before accepting the appointment.	As per confirmation received from M/s Diwanji & Co., communication was made with M/s D. C. Dave & Co.
6	If yes, please provide a copy of such communication.	The Company has stated that the communication and documentation are between M/s Diwanji & Co. and M/s D. C. Dave & Co., and since the Company is not a party to such communication, the same is not available with it.

9. Comments of the Disciplinary Directorate

a) In the present matter, the Complainant has, inter alia, alleged that the Respondent

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firm, M/s Diwanji & Co.:

- i. Actively solicited the cost audit assignment of National Peroxide Limited in contravention of Clause (6) of Part I of the First Schedule to the Cost and Works Accountants Act, 1959; and
 - ii. Accepted the position of Cost Auditor, previously held by another Cost Accountant in practice, without first communicating with the previous Cost Auditor in writing, in violation of Clause (8) of Part I of the First Schedule to the said Act.
- b) The Respondent, vide its written statement dated 13th March, 2023, denied all allegations and, inter alia, submitted that communication with the previous auditor was made vide letter dated 23rd October, 2022 (dispatched on 31st October, 2022 through courier), and subsequently, upon learning that the same was not received, a further communication was sent on 16th December, 2022 through Speed Post, which was delivered on 19th December, 2022.
- c) The Complainant, in its rejoinder, contended that the Respondent was appointed as Cost Auditor in the Board Meeting held on 9th August, 2022, and no communication was made to the previous auditor from the date of initial approach till October/December 2022. It was further submitted that such delay constitutes a clear violation of the professional requirement of prior communication.
- d) It is observed that as per Rule 6(2) of the Companies (Cost Records and Audit) Rules, 2014, the company is required to intimate the Central Government of the appointment of Cost Auditor in Form CRA-2 within thirty days of the Board meeting or within one hundred and eighty days from the commencement of the financial year, whichever is earlier.
- e) Based on the material available on record, the following facts are undisputed:

Particulars	Details
Name of Auditee Company	M/s NPL Chemicals Limited
Financial Year	2022-23
Name of the New Cost Auditor Firm	M/s Diwanji & Co.(FRN 000339)

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Particulars	Details
Date of Board Meeting (for Appointment of Cost Auditor)	9 th August, 2022
Last date for filing CRA-2 as per Rule 6(2) of Companies (Cost Records and Audit) Rules, 2014:	9 th September, 2022
First communication to previous auditor	23 rd October, 2022 (dispatched on 31 st October, 2022)
Second communication	16 th December, 2022 (delivered on 19 th December, 2022)

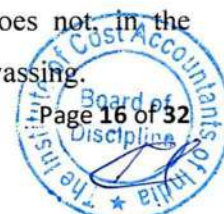
- f) It is further noted that the Institute, vide Notification No. G/128/10/2022(3) dated 25th October, 2022, prescribed the mode (Registered/ Speed Post) and format of communication with the previous auditor and clarified that non-compliance would attract disciplinary action under Clause (8) of Part I of the First Schedule to the Act.

10. Findings of the Disciplinary Directorate

A. Allegation relating to solicitation of professional work (Clause (6), Part I of First Schedule)

- The Complainant has alleged that the Respondent actively solicited the cost audit assignment.
- The Respondent has submitted that it merely responded to an inquiry initiated by the company and provided its profile without any further follow-up.
- Upon examination of the records, it is observed that:
 - No documentary evidence has been placed on record by the Complainant to substantiate the allegation of solicitation;
 - The Respondent's explanation that it was approached by the company appears plausible; and
 - Mere submission of credentials upon being approached does not, in the absence of any further material, amount to solicitation or canvassing.

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- d) In view of the above, and in the absence of cogent evidence, the allegation under Clause (6) of Part I of the First Schedule is not established.

B. Allegation relating to non-communication with previous Cost Auditor (Clause (8), Part I of First Schedule)

- a) It is an admitted and undisputed fact that the Respondent was appointed as Cost Auditor by Auditee Company vide their Board Meeting held on 9th August, 2022, and that the last date for filing Form CRA-2 was 9th September, 2022.
- b) The requirement of professional conduct mandates that communication with the previous auditor should be made prior to acceptance of appointment, and in any case, within a reasonable time contemporaneous with such acceptance.
- c) In the present case, the Respondent has admittedly communicated with the previous auditor only on 23rd October, 2022 (dispatched on 31st October, 2022), and thereafter on 16th December, 2022, i.e., significantly after the date of appointment and even beyond the statutory timeline for filing CRA-2.
- d) The Notification dated 25th October, 2022 prescribing the mode of communication is prospective. However, the fundamental requirement of prior communication being an established professional obligation remains unaffected.
- e) The Respondent has failed to demonstrate that any communication, by any mode, was made with the previous auditor prior to acceptance of the appointment or before filing of CRA-2. The subsequent communication made after a considerable delay does not cure the initial non-compliance.
- f) Accordingly, prima facie, it appears that the Respondent has failed to comply with the requirement of mandatory communication with the previous auditor within prescribed time thereby attracting the provisions relating to professional misconduct under the Cost Accountants Act, 1959 and the rules framed there under.

11. Prima Facie Opinion

- a) The above-mentioned complaint has been examined in pursuance of Section 21 of the Cost Accountant Act, 1959 as amended in 2006 read with Rule 9 of the Cost and Works Accountants (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007, M/s Diwanji & Co (FRN: 000339) respondent, is guilty of contravening of Clause (8) of Part I of the First Schedule to

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the Cost Accountant Act, 1959— accept a position as Cost Accountant previously held by another cost accountant in practice without first communicating with him in writing

- b) The prima facie opinion formed by the Director (Discipline) in terms of Rule 9(2)(a)(ii) the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 was placed before the 59th Committee of Board of Discipline held on 31st March, 2026 which was agreed to by the Committee in terms of Rule 9(2)(a) of the Rules. The Committee noted that this was a fit case against the respondent to be proceeded against in the light of the violations committed by the respondent
- c) The Board of Discipline has decided to proceed further under Chapter IV of the aforesaid Rules and, accordingly, it causes to be delivered to the Respondent and the Complainant the enclosed Prima Facie Opinion, formulated in pursuance of Rule 9(2)(a) of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

12. Proceedings as per Rule 14(3) to 14(5) of The Rule, 2007

- a) The Prima Facie Opinion dated 31st March, 2026, along with the relied-upon documents, was forwarded to both the Complainant and the Respondent vide letters bearing Nos. G/DD/Order/Com-CA(117)/C-03/06/11 and G/DD/Order/Com-CA(117)/R-02/07/12 dated 4th April, 2026. The Respondent was called upon to submit his second written statement within 21 days from the date of receipt thereof, in compliance with Rule 14(3) of the said Rules. The Respondent was also directed to serve an advance copy of his written statement to the Complainant in terms of Rule 14(4).
- b) The Respondent, vide communication dated 22nd April, 2026 (served on 28th April, 2026), submitted his written statement comprising 12 (twelve) pages including annxure in response to the notice issued under Rule 14(3) which is reproduced here below:

Quote

Sub: Written Statement in Response to Prima Facie Opinion under Rule 9(2)(a) - Complaint No. Com/21-CA (117)/2023 - M/s D.C. Dave & Co. (FRN 000611) [Complainant] vs. M/s Diwanji & Co. (FRN 000339) [Respondent]

Ref: Notice No. G/DD/Order/Com-CA (117)/R-02/07/12 dated 4th April, 2026
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Sir,

It is submitted that Late CMA S. V. Diwanji (M. No. 000753) expired on 6 May 2024. Accordingly, the present response to the above-referred notice is being submitted by the firm through its authorized partner, in terms of the Authorization Letter enclosed herewith.

We, M/s Diwanji & Co. (FRN 000339), Cost Accountants, hereby submit our Written Statement in response to the Prima Facie Opinion formed under Rule 9(2)(a)(i) of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 ('the Rules'), as communicated to us vide the notice cited above.

We respectfully submit that the Prima Facie Opinion, insofar as it finds a prima facie case under Clause (8) of Part I of the First Schedule to the Cost and Works Accountants Act, 1959 ('the Act'), is not sustainable in law and on facts, for the reasons set out in detail here in under. We most respectfully urge this Honorable Board of Discipline to discharge the proceedings against the Respondent firm.

I. PRELIMINARY SUBMISSIONS

1. The Respondent reiterates and adopts in entirety its earlier Written Defence Statement dated 13th March 2023 and all annexure thereto, which form part of this Written Statement. Only additional and supplementary submissions are made herein.
2. The Respondent respectfully submits at the outset that the complaint by M/s D.C. Dave & Co. was filed:
 - a) Without proper authorization as required under Rule 3(4) of the Rules — no resolution or authorization of the Complainant firm's partners was enclosed with Form I, as specifically required. This procedural defect was not cured and was never addressed by the Directorate.
A complaint filed in non-conformity with mandatory requirements under Rule 3 is liable to be dismissed in limine.
 - b) After the Complainant had already received written communication from the Respondent on 19th December 2022 — and yet the complaint was filed on 11th January 2023, a mere 23 days thereafter. This sequence of events is itself powerful evidence of mala fide intent.

II. RESPONSE TO THE PRIMA FACIE OPINION ON CLAUSE (8)

The Prima Facie Opinion proceeds on the following logic: that the Respondent was appointed on 9th August 2022; that written communication to the previous auditor was not made until 23rd October 2022; and that this delay constitutes a prima facie violation of Clause (8). With the greatest of respect, this reasoning is flawed on multiple legal and factual grounds:

Ground 1: Clause (8) is Triggered on 'Acceptance' — Not On-Board Resolution

3. Clause (8) of Part I of the First Schedule to the Act states: 'A cost accountant in practice is deemed to be guilty of professional misconduct if he accepts a position as cost accountant previously held by another cost accountant in practice without first communicating with him in writing.'

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4. The operative event under Clause (8) is 'acceptance' of the position by the incoming auditor — not the date of the Board Resolution of the company appointing him. Under law, the auditor's appointment is a bilateral act: the company appoints, and the auditor accepts by providing a consent/eligibility letter. The Board Resolution dated 9th August 2022 records only the company's act — it does not and cannot constitute the Respondent's formal acceptance.
5. The Respondent did not receive formal CRA-2 confirmation from the company until much later. It was awaiting this confirmation to formally accept the appointment. This is documented in the Respondent's Defence Statement and supported by the company's own reply to the Directorate. The Respondent communicated with the previous auditor as soon as the appointment was orally confirmed and simultaneously upon requesting CRA-2 — which is entirely consistent with Clause (8).
6. The Prima Facie Opinion erroneously equates the date of the Board Resolution with the date of 'acceptance' by the Respondent. This is a fundamental legal error that vitiates the finding.

Ground 2: Communication Was Made — The Only Requirement Under Clause (8)

7. It is an admitted and undisputed fact — acknowledged in the Prima Facie Opinion itself — that the Respondent did communicate in writing with M/s D.C. Dave & Co. on TWO separate occasions:
 - a) First Communication: Letter dated 23rd October 2022, dispatched via Pawan Couriers vide Ref. No. 17930 on 31st October 2022 (delay due to Diwali vacation). Documentary evidence: Courier receipt on record.
 - b) Second Communication: Letter resent via Speed Post on 16th December 2022, vide EG100289815IN, which was RECEIVED and ACKNOWLEDGED by M/s D.C. Dave & Co. on 19th December 2022. Documentary evidence: India Post tracking report on record.
8. The statute requires 'communication' — not 'prior communication' within a specific period. Both the Act and the Rules, as they stood at the time of the alleged violation, did not prescribe any specific timeline within which the incoming auditor must communicate with the previous auditor.
9. The ICMAI Notification No. G/128/10/2022(3) dated 25th October 2022 which prescribed the specific mode (Registered Post/Speed Post) and format of communication was issued AFTER the Respondent had already dispatched its first communication on 23rd October 2022. The Respondent could not have been bound by a notification not yet in existence. Even so, the Respondent's second communication of 16th December 2022 was by Speed Post — fully compliant with the Notification issued two months prior.
10. The Prima Facie Opinion acknowledges this chronological difficulty but attempts to sidestep it by stating that 'the fundamental requirement of prior communication being an established professional obligation remains unaffected.' This reasoning, with respect, is untenable. It effectively creates a retroactive obligation of 'prior to appointment' communication that was nowhere prescribed in the Act, the Rules, or any notification in force as on 9th August, 2022. Penal provisions must be strictly construed and cannot be given retrospective operation.

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Ground 3: Auditee Company Itself Has Confirmed Communication Was Made

11. In response to the Directorate's notice under Rule 8(5), Naperol Investments Limited (formerly National Peroxide Ltd.) confirmed in its letter dated 10th June, 2024 that: 'As per confirmation received from M/s Diwanji & Co., communication was made with M/s D.C. Dave & Co.' The company further stated that it is not a party to such communication and the same is not available with it.
12. This statement by the company is a clear corroboration of the Respondent's position. The Directorate has this evidence on record and yet has not adequately weighed it in forming the Prima Facie Opinion. The fact that the company itself confirmed communication was made cannot be brushed aside.

Ground 4: Mixing of Timelines — CRA-2 Deadline and Clause (8) Obligation are Separate

13. The Prima Facie Opinion specifically relies on Rule 6(2) of the Companies (Cost Records and Audit) Rules, 2014, which requires the company to file Form CRA-2 within 30 days of the Board Meeting (i.e., by 9th September 2022). The Opinion then proceeds to hold that since the Respondent communicated with the previous auditor only on 23rd October 2022 — beyond the CRA-2 deadline — the requirement under Clause (8) was violated.
14. This reasoning is legally fallacious. Rule 6(2) of the Companies (Cost Records and Audit) Rules, 2014 governs the statutory obligation of the COMPANY to file CRA-2 — it is not a provision of the CWA Act-1959, and it imposes no obligation on the AUDITOR. The obligation under Clause (8) of the First Schedule to the CWA Act is entirely distinct. There is no provision in the Act, the Rules, or any binding circular that mandates the incoming Cost Auditor to communicate with the previous Cost Auditor before CRA-2 is filed.
15. Importing the CRA-2 statutory timeline as a benchmark for Clause (8) compliance is an act of judicial/quasi-judicial overreach. The Board of Discipline is a creature of statute and can only apply standards expressly provided under the Act and the Rules.

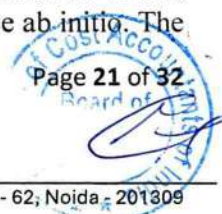
Ground 5: No Prescribed Timeline — Strict Construction Applies

16. Disciplinary proceedings under the Act are quasi-judicial in nature. The standard of proof is higher than mere balance of probabilities. The language of Clause (8) does not specify 'prior to appointment', 'prior to CRA-2', or any other deadline for communication. In the absence of any such express prescription, the Respondent cannot be held to have violated a non-existent standard.
17. It is a settled principle of interpretation that penal statutes must be strictly construed. Any ambiguity must operate in favour of the Respondent. In this case, 'communicating with him in writing' has been fulfilled by the Respondent. The only debate is the timing — and timing was not prescribed by the statute as of the relevant date.

Ground 6: The Complaint Itself is Defective and Was Filed in Bad Faith

18. The complaint was filed without the resolution/authorization of the Complainant firm's partners as mandated under Rule 3(4) of the Rules. The omission of this mandatory document renders the complaint procedurally defective ab initio. The

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Directorate ought not to have proceeded on such a defective complaint, and the Prima Facie Opinion formed on the basis of such a complaint is vitiated.

19. The Respondent further submits that the Complainant received the Respondent's Speed Post communication on 19th December, 2022. Despite knowledge that communication had been made, the Complainant filed this complaint on 11th January, 2023 — a mere 23 days later. Filing a complaint with knowledge that the alleged violation has been remedied is itself an act of professional bad faith, bordering on the offence under Section 21(3) and Section 21B(3) of the CWA Act for providing misleading information to the Disciplinary Directorate. The Respondent reserves its right to take appropriate action in this regard.
20. The Respondent submits, with utmost respect but with considerable force, that a most serious and troubling procedural infirmity pervades this entire proceeding: the Disciplinary Directorate has failed, at any stage, to independently verify and validate the very factual foundation upon which the complaint rests — namely, the status of Ms. Zarna Pankaj Thakar (M/45876) as a “then” partner of the Complainant firm. Specifically, the complaint dated 11th January, 2023 filed by CMA D.C. Dave describes Ms. Zarna as a “former partner” of M/s D.C. Dave & Co. However, as is irrefutably evidenced by Annexure-4 to the Respondent's Defence Statement — a screenshot of ICMAI's own Members' Online System downloaded on 11th March, 2023 at 16:47 — Ms. Zarna Pankaj Thakar (M/45876) was, as on that date, still shown as a continuing partner of M/s D.C. Dave & Co. (FRN 000611) in the Institute's own records, with the Deed Date recorded as 30-03-2021. The Complainant's characterisation of Ms. Zarna as a “former” partner at the time of filing the complaint on 11th January, 2023 was therefore demonstrably contrary to the Institute's own official database — a fact that the Disciplinary Directorate could and should have verified before proceeding to form any Prima Facie Opinion. Its failure to do so is not a mere oversight; it is a fundamental dereliction of the Directorate's statutory duty to independently examine the credibility and accuracy of the evidence before it. The Directorate appears to have accepted the Complainant's assertions at face value and rushed to a conclusion adverse to the Respondent without performing the most basic cross-verification. This failure casts a grave and irreparable shadow over the objectivity of the inquiry and, consequently, over the sustainability of the Prima Facie Opinion itself.
21. The internal contradictions surrounding Ms. Zarna's partnership tenure are further compounded by a critical and irreconcilable discrepancy between two official records that the Directorate has in its possession. In her direct response to the Directorate's Query dated 6th December, 2023, Ms. Zarna herself stated that she was a partner of M/s D.C. Dave & Co. during the period 30-03-2021 to 18-12-2022. However, in response to an RTI query, the Institute itself has placed on record that Ms. Zarna's partnership with M/s D.C. Dave & Co. subsisted from 30-03-2021 to 13-02-2023 — a variance of nearly two months from the date declared by Ms. Zarna herself in her sworn statement to the Directorate. This two-month discrepancy is not a trivial clerical difference; it directly affects the credibility of Ms. Zarna as the principal witness whose testimony forms the very basis of the complaint against the Respondent. If Ms. Zarna's own account of when she ceased to be a partner of the Complainant firm

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is inconsistent with the Institute's official RTI response, her entire testimony must be treated with the greatest circumspection. The Directorate's failure to reconcile this glaring inconsistency — and its decision to proceed to form a Prima Facie Opinion on the basis of unverified, internally contradictory testimony — constitutes a manifest failure of the investigative process and is sufficient ground in itself to vitiate the Prima Facie Opinion. It must further be noted that this inconsistency raises a legitimate and serious question as to whether the complaint was filed with an ulterior motive, exploiting a witness whose own account of facts is demonstrably unreliable and unverified by the very authority charged with impartial investigation.

22. As per the Institute's records, Ms. Zarna was also a partner of YS Thakar & Co. against whom complaints are pending with the Disciplinary Directorate and as per the grapevine he is also instrumental in arranging of filling numerous complaints / information. Hence, we are of the strong opinion that this complaint is nothing but a political vendetta.

Ground 7: Respondent Has Not Benefited from Any Unethical Conduct

23. The Respondent submits that it was approached by the company — not vice versa. It quoted a professional fee of Rs. 5 lakhs as against the previous auditor's fee of Rs. 4.5 lakhs — demonstrating that it did not undercut or solicit business unethically. Indeed, the Directorate and the Board of Discipline have, in the Prima Facie Opinion, found NO case under Clause (6) (solicitation). Having found no dishonest or improper conduct in obtaining the assignment, it would be disproportionate to hold that a procedural delay in communication — which was ultimately made and received — constitutes professional misconduct warranting further proceedings.

III. SUMMARY OF KEY POINTS IN DEFENCE

Sr. No.	Finding in Prima Facie Opinion	Respondent's Rebuttal
1	Respondent was appointed on 9 Aug 2022 (Board Resolution)	Board Resolution ≠ Acceptance by Auditor. Clause (8) is triggered on 'acceptance' — a bilateral act. Formal acceptance requires auditor's consent/eligibility. Respondent awaited CRA-2 for formal confirmation.
2	CRA-2 deadline was 9 Sep 2022; communication made only on 23 Oct 2022 — hence late	CRA-2 filing is the COMPANY's obligation under Companies Act rules, not the auditor's obligation under CWA Act. Clause (8) prescribes no specific deadline for communication. Mixing these

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		timelines is legally erroneous
3	Institute Notification of 25 Oct 2022 mandates prior communication	Respondent's first communication was dispatched on 23 Oct 2022 — BEFORE the Notification. Second communication (16 Dec 2022) fully complies with the Notification. Notification cannot operate retroactively.
4	Communication was significantly delayed and does not cure initial non-compliance	Communication was made and RECEIVED. The obligation under Clause (8) is to 'communicate' — not to do so within a prescribed period (which did not exist at the time). The requirement has been substantially complied with.
5	Company confirmation is between the auditor firms and the company is not party to it	Naperol - Investments Ltd. affirmatively confirmed 'communication was made' based on confirmation received from Diwanji & Co. This is an independent third-party corroboration entirely supporting the Respondent
6	The Directorate relied on the testimony of Ms. Zarna (M/45876) described as "former partner" of M/s D.C. Dave & Co. without independent verification of her partnership status or the duration thereof	ICMAI's own website (Annexure-4, downloaded 11-03-2023 at 16:47) showed Ms. Zarna as a continuing partner of D.C. Dave & Co. as on the date of complaint (11-01-2023), contradicting the Complainant's "former partner" characterisation. Further, Ms. Zarna's own response to the Directorate (06-12-2023) states her tenure as 30-03-2021 to 18-12-2022, whereas the Institute's RTI response states 30-03-2021 to 12-02-2023 — a two-month discrepancy never reconciled by the Directorate. This renders her testimony unreliable and the Directorate's failure to verify

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		it constitutes a manifest procedural failure vitiating the Prima Facie Opinion.
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IV. PRAYER

In light of the foregoing submissions, the Respondent most respectfully prays that this Honourable Board of Discipline be pleased to:

- 1) DISCHARGE the Respondent from the present proceedings, holding that the Prima Facie Opinion under Clause (8) of Part I of First Schedule to the CWA Act, 1959 is not sustainable in law and on facts;
- 2) HOLD that the Respondent has complied with the requirement of written communication under Clause (8) by dispatching letters to the Complainant on 23rd October 2022 (by courier) and 16th December, 2022 (by Speed Post, received on 19th December, 2022), both supported by documentary evidence on record;
- 3) HOLD that the complaint is procedurally defective for non-compliance with Rule 3(4) of the Rules, and ought to have been dismissed in limine;
- 4) TAKE NOTE of the bad faith inherent in the filing of the complaint on 11th January, 2023 — just 23 days after the Complainant received the Respondent's communication — and further take note that the Complainant made a demonstrably false statement by describing Ms. Zarna Pankaj Thakar (M/45876) as a "former partner" when the Institute's own official records showed her to be a continuing partner of M/s D.C. Dave & Co. as on the date of the complaint, and direct an investigation into whether the Complainant has thereby violated Section 21(2) and Section 21(3) read with Section 21B(3) of the CWA Act, 1959 by submitting false and misleading information to the Directorate;
- 5) GRANT such other and further relief as this Honourable Board of Discipline may deem fit in the interests of justice.

We assure the Honourable Board of Discipline of our fullest cooperation and availability at any time for any clarification, further information, or personal hearing as may be required.

For M/s Diwanji & Co.

Cost Accountants,

FRN: 000339

CMA Mihir Vyas

Partner

M.No.31564

Unquote

- c) A copy of the Respondent's written statement dated 22nd April, 2026 was duly forwarded to the Complainant vide communication number G/BOD/Com-CA(117)/C-04/07/64 dated 11th May, 2026, calling upon him to submit his rejoinder within 7 days, in compliance with Rule 14(5) of the said Rules. However, no rejoinder was received

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within the stipulated period. Accordingly, a reminder notice along with Notice of hearing bearing Communication No. G/BOD/Com-CA(117)/C-05/14/86 dated 28th June, 2026 was issued, granting the Complainant final opportunity to submit the rejoinder, along with all supporting documents, before the schedule date of hearing, in compliance with Rule 14(5) of the Rules.

13. Proceedings as per Rule 14(6) of The Rule

a) Proceedings of Meeting held on 3rd July, 2026

- (i) Notice dated 28th June, 2026 was issued to both the Complainant and the Respondent under Rule 14(6) of the aforesaid Rules, requiring their appearance for making oral submissions before the Hon'ble Board of Discipline on Tuesday, 3rd July, 2026 at 12:10 PM.
- (ii) On the scheduled date and time, the Respondent appeared before the Board through virtual mode, However, despite due service of the notice of hearing, the Complainant remained absent and was not represented before the Board.
- (iii) During the course of hearing, the respondent reiterated the submissions made in his written statement and, inter alia, submitted that the Auditee Company had not informed the Respondent firm of their appointment as the Cost Auditor prior to filing Form CRA-2. Upon a specific query from the Board as to whether he possessed any documentary evidence to establish that the Auditee Company had informed him of his appointment subsequent to the filing of Form CRA-2, the Respondent submitted that the correspondence with the Auditee Company, including the sharing of his profile and other requisite documents, had been handled by his late Senior Partner, Shri S. V. Diwan, who has since passed away. He further stated that, based on the records presently available with him, the Auditee Company forwarded a copy of Form CRA-2 to him through email dated 25th November, 2022. The Respondent also submitted that the Auditee Company has since undergone demerger, due to which he is unable to obtain any further records or confirmation from the Company. He maintained that there was no non-compliance on his part and, without prejudice to his submissions, requested the Board to take a sympathetic view in the matter, considering the demise of his Senior Partner, who had been handling the communications with the Auditee Company.

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- (iv) The Respondent further undertook to place on record a copy of the email dated 25th November, 2022, whereby the Auditee Company had allegedly forwarded to him a copy of Form CRA-2, in support of his submissions.
- (v) Pursuant to the hearing, the respondent submitted his written statement comprising 02 pages which is reproduced hereunder verbatim:

Quote

To,
CMA (Dr.) Hemant Kumar Sindhvani
Director (Discipline)
Disciplinary Directorate, ICMAI
CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi - 110003

Subject: Written Submissions and Documents pursuant to the Virtual Hearing held on 3rd July 2026 [Complaint no.: Com/21-CA- (117)/2023]

Respected Sir,

1. This is with reference to the virtual hearing held today in the above-referred matter. As directed during the course of the hearing, we respectfully submit herewith the following documents for your kind consideration:
 - i) E-mail dated 22 November 2022 received from CS Heena Shah, Company Secretary, National Peroxide Limited ("the Company"); and
 - ii) Form CRA-2 and the payment receipt, as furnished by the Company as attachments to the aforesaid e-mail.
2. At the outset, it is respectfully submitted that the appointment in question originated from the sharing of the firm's profile and discussions held between the Company's executives and Late CMA S. V. Diwanji, Founder Partner of the firm. Since these communications were exchanged personally between the Company's representative and the Late Founder Partner, it is not possible at this stage to establish the precise date on which the Company confirmed the appointment. This inability arises from circumstances entirely beyond the Respondent's control and cannot, in fairness, be held against the Respondent.
3. It is further submitted that immediately upon learning of the appointment through oral communication from the Company, the Respondent duly informed the Complainant (the previous cost auditor) by letter dated 23 October 2022. Significantly, this communication predates the Notification of the Institute relied upon by the Complainant, which mandates compulsory prior intimation to the previous auditor.
4. It is a settled principle of law that a notification or regulation operates prospectively unless it expressly provides otherwise, and it cannot be applied retrospectively so as to invalidate or adversely affect an act that stood completed prior to its issuance. The Respondent's communication of 23 October 2022 was complete in all respects before the Notification came into force. It is also pertinent to note that the complaint itself was filed only in February 2023. Accordingly, no violation of the Notification can be attributed to the Respondent.

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5. Without prejudice to the foregoing, and purely by way of abundant caution, it is submitted that M/s Diwanji & Co. issued a second communication to the Complainant on 16 December 2022, which is fully compliant with the requirements of the Notification. Therefore, even assuming without admitting that the Notification applies to the present case, the Respondent stands in complete compliance with its requirements.
6. In view of the foregoing submissions, duly supported by contemporaneous documentary evidence and independent third-party confirmation from the Company, it is respectfully submitted that the allegation of non-communication with the previous auditor is wholly unfounded, devoid of merit, and deserves to be rejected in limine.
7. We shall remain available to furnish any further information, clarification, or documents that your good office may require.

Thanking you,
For M/s Diwanji & Co.
Cost Accountants,
FRN: 000339
CMA Mihir Vyas
Partner
M.No.31564

Unquote

b) Proceedings of Meeting held on 10th July, 2026

- (i) The matter was taken up for further consideration. The Board noted the submission of the Respondent that the communication regarding his appointment as the Cost Auditor was received through an e-mail dated 22nd November, 2022 from Ms. Heena Shah, Company Secretary of National Peroxide Limited. In support of the said contention, the Respondent placed on record a copy of the said e-mail along with Form CRA-2.
- (ii) The Board further noted that despite being afforded adequate opportunity, the Complainant neither filed any rejoinder to the Respondent's second written submission nor appeared before the Board during the course of personal hearing. Consequently, the submissions made by the Respondent remained un-rebutted.
- (iii) However, considering that the determination of the exact date of appointment is material for adjudication of the matter, the Board decided to seek an independent confirmation from the Auditee Company regarding the actual date on which the appointment of the Respondent as Cost Auditor was communicated.

c) Proceedings of Meeting held on 17th September, 2026

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- (i) Notice dated 10th September, 2026 was issued to both the Complainant and the Respondent under Rule 14(6) of the aforesaid Rules, requiring their appearance for making oral submissions, if any before the Hon'ble Board of Discipline on Thursday, 17th September, 2026 at 11:40 AM.
- (ii) The Board Noted that further, a Notice dated 29th July, 2026, under Section 21C of the Cost Accountants Act, 1959 read with Rule 8(5) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, was issued to M/s Naperol Investments Limited (formerly known as National Peroxide Limited) vide Communication No. G/DD/Com-CA(117)/M-05/16, calling upon the Company to furnish, within seven (7) days of receipt thereof, the exact date on which the appointment of M/s Diwanji & Co. as Cost Auditor was communicated to the said firm, along with documentary evidence of such communication, whether by letter, e-mail or otherwise. No response was received from the Company within the stipulated period. Accordingly, a reminder notice dated 10th September, 2026, vide Communication No. G/DD/Com-CA(117)/M-06/17, was issued seeking the requisite information. The Board noted that the requisite information had not been received from the Company as on the date of the hearing
- (iii) The Board further noted that the Complainant, vide e-mail dated 16th September, 2026, sought permission to withdraw the complaint. In support of the request, the Complainant stated that he had subsequently learnt that the Respondent's appointment as Cost Auditor had been made without the Respondent's knowledge or written consent. The Complainant further stated that the Company had taken corrective action and reappointed the Complainant's firm as Cost Auditor for the subsequent year and consequently, he did not wish to pursue the complaint.
- (iv) On the scheduled date and time, the Respondent appeared before the Board through virtual mode and reiterated the submissions contained in the written representation dated 22nd April, 2026. The Respondent denied having committed any professional misconduct and, inter alia, contended that the Complainant's request for withdrawal reflected his acceptance of the Respondent's explanation. On this basis, the Respondent requested that the proceedings be dropped.

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(v) The Board considered the Complainant's request for withdrawal and the Respondent's submissions in terms of provisions of Rule 6 of Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. Having regard to the advanced stage of the proceedings and the material available on record, the Board declined to permit withdrawal of the complaint. The Board was also not persuaded that the Complainant's stated reasons for seeking withdrawal, or the Respondent's interpretation thereof, provided sufficient grounds for dropping the proceedings. Accordingly, the Board decided to proceed with consideration of the matter on its merits, on the basis of the evidence and material available on record.

14. Findings and order of the Board of Discipline

- a) The Board has carefully considered the complaint, written statements, rejoinder, Prima Facie Opinion of the Director (Discipline), material collected during investigation, oral submissions and additional documents furnished pursuant to its directions.
- b) The issue for determination is whether the Respondent accepted the position of Cost Auditor previously held by the Complainant without first communicating with the Complainant in writing, thereby contravening Clause (8) of Part I of the First Schedule to the Cost Accountants Act, 1959.
- c) The Board notes that the Company passed the appointment resolution on 9th August, 2022 and, as recorded, filed Form CRA-2 on 7th September, 2022. The Board also notes that the Respondent's defence relies upon its letter dated 23rd October, 2022, dispatched by courier on 31st October, 2022, and the subsequent communication dispatched through Speed Post on 16th December, 2022 and delivered on 19th December, 2022. The Board has duly considered the Complainant's denial of receipt of the first communication and objection concerning the intervening period.
- d) The Respondent maintained that the Company did not promptly intimate its appointment and, therefore, communication with the previous Cost Auditor was initiated upon receiving the oral confirmation of appointment. The e-mail forwarding Form CRA-2 was received by the Respondent only on 22nd November, 2022. Thus,

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there is nothing on the record to establish exactly when the Respondent was first informed, or first became aware of, or accepted, the appointment.

- e) The Board recognises that the Companies (Cost Records and Audit) Rules, 2014 require the Company to obtain the proposed Cost Auditor's written consent before appointment. The appointment resolution and filing of Form CRA-2 are therefore relevant to the inquiry. However, such statutory requirement to obtain consent, without sufficient supporting evidence, cannot be the basis to presume that the Respondent furnished such consent prior to filing of Form CRA-2 by the Company. The material on record does not adequately establish any date or terms of the Respondent's consent or acceptance.
- f) To ascertain the sequence of events, the Company was specifically called upon, vide notice dated 29th July, 2026 and reminder dated 10th September, 2026, to furnish the date and documentary evidence of communication of the appointment. No response was received. The Company's earlier statement that communication with the previous auditor had been made was based on information furnished by the Respondent and not based on Company's independent enquiry. The Respondent also has cited the demise of CMA S. V. Diwanji, who handled the engagement, and the Company's restructuring as difficulties in obtaining further records.
- g) The Board has also considered the Complainant's failure to file further rejoinders or appear at the hearing, and the e-mail dated 16th September, 2026 seeking withdrawal of the complaint stating that the appointment had been made without the Respondent's knowledge or written consent. Having declined withdrawal, the Board has decided to determine the matter on the basis of material already on record.
- h) The Company's appointment resolution dated 9th August, 2022 and filing of Form CRA-2 on 7th September, 2022 do not, in the circumstances of this case, sufficiently establish exactly when the Respondent accepted the assignment.
- i) Upon a cumulative assessment of the entire record, including the circumstances relied upon in the Prima Facie Opinion and the subsequent submissions and documents on record; the Board finds insufficient cogent and reliable evidence to establish the alleged contravention. This conclusion rests on the failure to establish the charge on the available evidence and does not dilute the mandatory obligation of prior written communication under Clause (8) of Part I of the First Schedule.

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- j) Accordingly, the Board concludes that the allegation against the Respondent, M/s Diwanji & Co. (FRN 000339), has not been established and, therefore, finds the Respondent not guilty of the professional misconduct under consideration. Consequently, pursuant to Rule 15(2), read with Rule 14(9), of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Board hereby order that the proceedings against the respondent is hereby dropped and the case stands closed.

CMA Avijit Goswami

(Member)

Shri P.K. Pujari, IAS (Retd)

(Presiding Officer)

Place: New Delhi

Date: 30th September, 2026

Distribution under Rule 15(3) of the Rule

- 1) Director(Discipline), The Institute of Cost Accountants of India
- 2) Complainant M/s D. C. Dave & Co. (FRN/000611)
- 3) Respondent, M/s Diwanji & Co. (FRN/000339)

