



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

Telephones : 2252-1031/1034/1035
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DISCIPLINARY DIRECTORATE

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

In the matter of

Complaint No. Com/21-CA(104)/2022 –

CMA Vikas Vinayak Deodhar (M/3813).....Complainant

Vs

CMA Chitag Trilok Shah (M/23277)Respondent

Quorum

- | | |
|--|---------------------------------|
| 1. CMA Ashwin G Dalwadi | - Presiding Officer |
| 2. CMA Manoj Kumar Anand | - Member |
| 3. CMA TCA Srinivasa Prasad | - Member |
| 4. Smt. Meenakshi Sharma IA & AS (Retd.)
Member | - Nominee of Central Government |

ORDER

Facts.

1. The Disciplinary Directorate is in receipt of a complaint in triplicate in Form I dated 24th December 2021 together with a demand Draft No. 001935 dated 24th December 2021, drawn on HDFC Bank, Matunga Branch, Mumbai, for Rs 2500/- from CMA Vikas Vinayak Deodhar (hereinafter referred to as the "complainant"), bearing membership number 3813 against CMA Chirag Trilok Shah (hereinafter referred to as the "respondent") bearing membership number 23277, containing certain allegations against the respondent falling under the Schedules to the Cost and Works Accountants Act, 1959.



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2. On a careful scrutiny by the Disciplinary Directorate of the complaint and the Demand Draft No. 001935 for Rs 2500/-, it was observed that the complainant had not submitted the prescribed fee for filing disciplinary complaint as per Regulation 15B of the Cost and Works Accountants Regulations 1959 as the complaint fee will attract GST @ 18%. Hence, there was a technical deficiency which needed to be rectified under Rule 5(5) of the Cost and Works Accountants (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007,
3. Accordingly, by a letter No. G/DD/RDC/02/01/2022 dated 14th January 2022, the complainant was informed that since the prescribed complaint fee as per Regulation 15B of the Cost and Works Accountants Regulations 1959 has not been filed, the three copies of his complaint in Form I together with the Demand Draft No. 001935 dated 24th December 2021 in original were returned herewith on the grounds of technical deficiency mentioning that he was at liberty to rectify the complaint and re-submit the same.
4. The complainant by a letter dated 18th January 2022 submitted another DD No. 1936 dated 17th January 2022 drawn on HDFC Bank, Matunga Branch, Mumbai for Rs 450/- i.e., towards the GST amount. The complaint consisted of 03 (three) pages including annexure. Form I is reproduced below in verbatim:

Quote

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)	VIKAS VINAYAK DEOHDAR Membership No. 3813. Hereinafter referred to as the "Complainant".
2.	Name of the member/firm against whom complaint is being made: (with membership number/registration number of the firm, if known)	MR. CHIRAG TRILOK SHAH Membership No. 23277. Hereinafter referred to as the "Respondent".
3.	Last address of the complainant for communication.	2503, Shreeji Heights, T.H. Kataria Marg, Matunga (West), Mumbai- 400016. Mobile/Whatsapp No. +919923201634.
4.	Last available professional address of the Member or the firm against whom the complaint is made.	B 1104, HERITAGE SKYZ, Prahlad Nagar, Satellite, Ahmedabad- 380015. Mobile/Whatsapp. No.+919923201634.





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<p>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 of commission or omission or both would fall.</p>	<p>1. According to the best of my knowledge and information, the Respondent was employed as Finance Controller, of the K. Raheja Corp. Raheja Tower, Plot No. C-30, Block- G, Next to Bank of Baroda, Bandra Kurla Complex, Bandra (E), Mumbai-400051. All the 12 Companies as listed in Annexure- I attached herewith, are the Associate or subsidiary or the company under the same management of K. Raheja Group of Companies.</p> <p>Before or after discontinuation of his employment with the aforesaid group of Companies, apparently, the Respondent obtained his Certificate of Practice from the Institute, and canvassed for and solicited the clients (12 Companies as Listed in the Annexure-I attached herewith), for the Professional work of Cost Audit for the year 2021-22. I was the Cost Auditor of the 12 Companies upto 2020-21. By continuous contacts with concerned Manager/s of 12 Companies from K. Raheja Group, the Respondent has clearly indulged in the Professional Misconduct of "soliciting clients or professional work" under clause (6) of The First Schedule, Part I, under section 21 of the Cost and Works Accountants Act, 1959.</p> <p>2. According to the best of my knowledge and information, the Respondent has got himself appointed for the Cost Audit assignments for the year 2021-22, for the 12 Companies as listed in Annexure- I attached herewith. I state that for the aforesaid 12 Companies, I, VIKAS VINAYAK DEODHAR, was the Cost Auditor for the year upto 2020-21. The 12 Companies have uploaded the Intimation of appointments of Cost Auditor, in Form CRA-2, sent to MCA, New Delhi. The</p>
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DISCIPLINARY DIRECTORATE

		<p>Respondent has been appointed by the aforesaid 12 Companies, without any communication, information, or the reason and/or any intimation to me in writing – the Previous Cost Auditor for 2020-21.</p> <p>The Respondent has clearly indulged in the Professional Misconduct under clause (8) of the First Schedule, Part I, under section 21 of the Cost and Works Accountants Act, 1959.</p> <p>3. In the process of canvassing and soliciting the professional work of Cost Audit, and getting the appointment as Cost Auditor, it is suspected that the Respondent, has also committed the other unethical practices of under cutting of Fees, obtaining of Certificate of Practice while in employment on the basis of false declaration in the application, and/or such other violations of the Rules and Regulations of the Institute of Cost Accountants of India and/or the Companies Act, 2013. I do not have specific documentary evidence about the other violations. The Respondent and the 12 Companies, may be called upon to produce the necessary Board Resolutions showing the Cost Audit Fees for 2021-22, copies of Forms CRA- 2 as Intimation of appointment of Cost Auditor, copy of respondent's application for Certificate of Practice, copy of relieving letter from the company, for discontinuation of his employment, etc.</p> <p>4. I request to grant me an opportunity to rectify any clerical error, and to add and supplement my Complaint, as and when the evidences are available during the course of investigation of my complaints.</p>
6.	Particulars of evidence(s) adduced in support of the allegations(s) made	Annexure- I List of Companies for which the Respondent has been appointed as Cost Auditor for 2021-22.





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7.	Name(s) of person who have knowledge of the facts of the case.	All the concerned Director/s, Manager/s, Company Secretaries, Signatories of Form CRA-2 of the 12 Companies, who deal with the appointment of Cost Auditor and those who have knowledge of the facts of the case.
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Unquote

5. The technical deficiency, being removed, the instant complaint was registered by the Disciplinary Directorate in terms of Rule 5 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 and the same was proceeded with in the manner as prescribed in Chapter III of the Rules by giving a unique number, Information No. Com/21-CA(104)/2022.
6. A copy of the three-page complaint was sent to the respondent vide letter No. G/DD/Com-CA(104)/(M-23277)/1/02/2022 dated 9th February 2022 in terms of sub-rule (3) of Rule 8 of the Rules, with a request to send his response in his defence through a written statement within 21 days from the date of service of the letter under reference. The respondent vide letter dated 23rd February 2022 submitted his written statement which is reproduced below in verbatim:

Quote

"Subject : I am in receipt of Complaint No. Com/21-CA(104)/2022 – CMA Vikas Vinayak Deodhar (M/3813) -Vs- CMA Chirag Trilok Shah (M/23277)

Dear Sir,

I am in receipt of Complaint No. Com/21-CA(104)/2022 dated 9/2/2022 received on 14/2/2022.

I submit my response to the allegations made by CMA Vikas Vinayak Deodhar (M/3813).

1. As per my knowledge, I have not violated any of the rules/ regulations of the Institute.
2. At the outset, let me inform you that I was working with K. Raheja Corp Investment Managers LLP (part of K. Raheja Group) as V P – Accounts, K. Raheja Corp Investment Managers LLP is not part of the list of companies provided by provided by CMA Vikas Vinayak Deodhar. (Pls. refer list of companies in annexure 1 attached by CMA Vikas Vinayak Deodhar.)
3. I had resigned from the company on 28/5/2020 with notice period of 3 months.
4. I applied for COP in the last week of August 2020 and got approved on 02/09/2020.



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5. My appointment as cost auditors for the year 2021-22 (for the list of companies mentioned in annexure 1 attached by CMA Vikas Vinayak Deodhar) was considered based on my knowledge and abilities. All my appointments in the month of April 21 onwards.
6. I have informed CMA Vikas Vinayak Deodhar about my likely/proposed appointment for financial year 2021-22 through an email on 08.04.2021. (Annexure 1 : Email copy)
7. I confirm that there was no under cutting of fees, at all. Rather my fees were kept same or increased based on our mutual discussion with the management.

Please let me know if you need any other information in this regards. Please expedite the matter.

Thanks & Regards,

CMA Chirag Trilok Shah

Encl.: Annexure 1 : Email copy"

Unquote

7. The respondent had attached an email dated 8th April 2021 wherein he had sent an email from his mail id cmachiragshah@gmail.com to vvdsvdr@gmail.com claiming to be the email id of the complainant stating that K. Raheja Corp Private Ltd has approached M/s Chirag Trilok Shah & Co., i.e., the respondent's firm for an appointment as cost audit for the FY 2021-22 in respect of the following twelve number of companies:

- Sundew Properties Ltd
- Intime Properties Ltd
- K Raheja IT Park (Hyderabad) Ltd
- Mindspace Business Parks Private Ltd
- Gigaplex Estate Private Ltd
- KRC Infrastructure and Projects (P) Ltd
- Genext Hardware & Parks (P) Ltd
- K. Raheja Corp (P) Ltd
- K raheja Corporate Services (P) Ltd
- K Raheja (P) Ltd
- Inorbit Malls (India) Pvt. Ltd
- Chalet Hotels Ltd

The complainant's firm was the auditor in respect of the above mentioned twelve companies for the FY 2020-21.





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8. The written statement of the respondent was sent to the complainant vide letter No. G/DD/Com-CA(104)/03/03/2022 dated 3rd March 2022 requesting the complainant to submit his rejoinder on the written statement 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 within 21 days from the date of service of the letter under reference. The complainant, vide letter dated 7th March 2022, submitted his rejoinder on the written statement which is reproduced below in verbatim:

Quote

"Dear Sir,

In response to your letter dt. 3.3.2022, I state as under :

1. My complaint against Mr. Chirag Trilok Shah (M/23277) is for his indulging in
 - i) the Professional Misconduct of "soliciting clients or professional work" as per clause (6) of The First Schedule, Part I, under section 21 of the Cost and Works Accountants Act, 1959 and
 - ii) the Professional Misconduct of accepting "a position as Cost Accountant previously held by another cost accountant in practice without first communicating with him in writing" as per clause (8) of the First Schedule, Part I, under section 21 of the Cost and Works Accountants Act, 1959.
2. In para 2 of the Written Statement dt. 23.02.2022, the Respondent has confirmed that he was employed with the company under "K. Raheja Group". In para 7 of the Written Statement dt. 23.02.2022, the Respondent has confirmed that he was in "mutual discussion with the management" for his appointment, and Fees as Cost Auditor for 12 companies for 2021-22, even before my completion of Cost Audit for 2020-21 as the "previous Cost Auditor". Thus his Professional Misconduct of "soliciting clients or professional work" under clause (6) of The First Schedule, Part I, is proved and confirmed. The Respondent has not specified the names of Managers with whom he had "mutual discussion with the management". He may be called upon to specify the names of concerned Managers. He may be called upon to produce the relevant papers of the company for his appointment – His Certificate to the Board of Directors certifying his eligibility for appointment, acknowledgement by the company for his eligibility certificate, Board Resolution for appointment, Company's letter of appointment, Copy of Form CRA-2 Intimation of appointment of Cost Auditor, filed with MCA, etc. I request for granting me an opportunity to examine the concerned Managers on oath, before the matter is decided by the Disciplinary Committee.
3. The Respondent has not produced any evidence whatsoever, supporting his statement in para 7, about his Fees fixed up "on our mutual discussion with the management."





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Apparently, my complaint that he has indulged in under-cutting of Fees, is proved and confirmed.

4. The so called copy of an Email dt. 8.4.2021 sent with the Written Statement dt. 23.02.2022, is apparently, a fabricated document, created by the Respondent as an "after thought", after my Complaint.
5. The so called Email dt. 8.4.2021 from the Respondent, is clearly addressed to vvdsvdr@gmail.com, which is not at all my Email Id and is never received by me. The Respondent has not sent any "written" communication to me, at any time as required under clause (8) of the First Schedule, Part I, under section 21 of the Cost and Works Accountants Act, 1959.
6. In view of all the Statements as above, I confirm my Complaint dt. 24.12.2021, against Mr. Chirag Trilok Shah (M/23277)- Respondent, and I Pray for necessary action against the Respondent.
7. I request you to grant me an opportunity for personal hearing in the matter. Before the matter is decided by the Disciplinary Committee, I request for granting me an opportunity to examine on oath, the concerned Managers of the K. Raheja Group, with whom the Respondent was in "mutual discussions" for his appointment.

Due to my ongoing medical treatment, I request you to hold the personal hearing, at Mumbai.

Thanking you,

Yours faithfully,

VIKAS VINAYAK DEODHAR
COST ACCOUNTANT- M/3813"

Unquote

9. Investigation & Analysis

As part of the investigation that the Director (Discipline) is empowered to conduct u/s 21 of the CWA Act, 1959, a letter No. G/DD/Com-CA(104)/1/10/2022 dated 13th October 2022 was addressed to the CEO/MD of K. Raheja Group of Companies seeking the following information with a week of receipt of the said communication;

- (i) Whether the respondent was, at any time, employed with any of the group companies.





DISCIPLINARY DIRECTORATE

- (ii) If so, please provide the duration of his employment with your organization indicating his date of joining and date of cessation from service, if any.
- (iii) Is any of their group companies subject to cost audit?
- (iv) If so, to provide the name of the cost auditor / firm of cost auditor for the FY 2019-20, 2020-21 and 2021-22.
- (v) Has there been any change in cost auditor during the above mentioned years If so, to provide details thereof.
- (vi) To mention the name of all companies of your group which are subject to cost audit and the name of the cost auditors of each such group companies.
- (viii) To provide a copy of Form CRA-2 uploaded online with the Ministry of Corporate Affairs for the FY 2019-20, 2020-21 and 2021-22.
10. Since no response was forthcoming another reminder by way of a letter No. G/DD/Com-CA(104)/2/12/2022 dated 6th December 2022. The authorized signatory of K Raheja group, by a letter dated 13th December 2023 submitted the following response which is reproduced in verbatim:

Quote

"Dear Sir,

Reference: G/DD/Com-CA (104)/1/10/2022

Vide your letter dated 13, October 2022 you have requested certain information about Mr. Chirag Trilok Shah. Please find below clarification to your questions:

- 1) Whether Shri Chirag Trilok Shah was, at any time, employed with any of your group companies.
Answer: Yes – Mr. Chirag Shah was employed in K. Raheja Corp Group (KRC Group).
- 2) If So, please provide the duration of his employment with your organisation including his date of joining and date of cessation from service, if any.
Answer: Mr. Chirag Trilok Shah was employed with KRC Group as follows:
- Date of Joining: 24.04.2008
 - Date of resignation: 28.05.2020
 - Date of relieving from service: 23.11.2020

3) If any of your group companies subject to cost audit?





DISCIPLINARY DIRECTORATE

Answer: Yes

- 4) If so, please provide the name of the cost auditor/firm of cost auditor for the FY 2019-20, 2020-21 and 2021-22.

Answer: Following are our group companies covered under the cost audit with name of cost auditor for FY 2019-20, 2020-21 and 2021-22

Name of Company	Cost Auditor FY 2019-20	Cost Auditor FY 2020-21	Cost Auditor FY 2021-22
Sundew Properties Limited	Auditor 1	Auditor 1	Auditor 2
Intime Properties Limited	Auditor 1	Auditor 1	Auditor 2
K. Raheja IT Park (Hyderabad) Limited	Auditor 1	Auditor 1	Auditor 2
Mindspace Business Parks Private Limited	Auditor 1	Auditor 1	Auditor 2
Gigaplex Estate Private Limited	Auditor 1	Auditor 1	Auditor 2
KRC Infrastructure and Projects Private Limited	Not Applicable	Auditor 1	Auditor 2
Genext Hardware & Parks Private Limited	Auditor 1	Auditor 1	Auditor 2
K. Raheja Corp Private Limited	Auditor 1	Auditor 1	Auditor 2
K. Raheja Corporate Services Private Limited	Auditor 1	Auditor 1	Auditor 2
K. Raheja Private Limited	Auditor 1	Auditor 1	Auditor 2
Inorbit Malls (India) Private Limited	Auditor 1	Auditor 1	Auditor 2
Chalet Hotels Limited	Auditor 1	Auditor 1	Auditor 2

Auditor 1 : Vikas Vinayak Deodhar
Auditor 2 : Chirag Trilok Shah & Co.

- 5) Has there been any change in cost auditor during the above-mentioned years if so, please provide details thereof.

Answer: Yes, please refer chart given as answer to point 4.





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6) Please mention the name of all the companies of your group which are subject to cost audit and the name of the cost auditors of each such group companies.

Answer: Please refer chart given as answer to point 4.

7) Please provide a copy of form CRA- 2 uploaded online with ministry of companies' affairs for the FY 2019-20, 2020-21 and 2021-22.

Answer: These forms are annexed herewith.

Trust you will find above to your satisfaction.

Thanks & Regards

Yours sincerely,
For K. Raheja Corp.

Authorised Signatory"

Unquote

From the above mentioned reply of the company, it is evident that for FY 2019-20 & 2020-21, the cost auditor of K. Raheja Group consisting of twelve (Eleven for FY 2019-20) companies was the complainant's (CMA V.V. Deodhar) firm while for FY 2021-22, a new auditor i.e., the respondent's (CMA Chirag Trilok Shah) firm was appointed as the cost auditor. This has also been brought out suitably in the Forms CRA-2 [pursuant to Section 148(3) of the Co's Act, 2013 read with Rules 6(2) & 6(3A) of the Companies (cost records and audit) Rules, 2014.]

11. The Disciplinary Directorate, vide letter No. G/DD/Com-CA(104)/(M-23277)/2/12/2023 dated 5th December 2023 sought the following information from the respondent within seven days of receipt of the said communication:

- i. The period of his employment with K Raheja Corp Group.
- ii. His date of joining the K Raheja Corp Group.
- iii. His date of tendering resignation in K Raheja Corp Group.
- iv. His date of release from service.
- v. Did he communicate with the complainant for accepting the position of cost auditor in the group companies of K Raheja before undertaking cost audit during the FY 2021-22?
- vi. If his answer to para (v) above is in affirmative, to provide documentary evidence of such communication by speed post/registered post/courier and the like.
- vii. If he had not communicated with the previous cost auditor through any of the above mentioned modes of communication as mentioned in para (vi) above, to provide the mode of communication that he adopted, if any.



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DISCIPLINARY DIRECTORATE

- viii. In case of email communication, if any, to provide the source of such email i.e., your mode of obtaining such email id of the previous cost auditor.
12. The respondent had replied to each of the above mentioned eight queries by his letter dated 14th December 2023 which are given below:
- The period of the respondent's employment with K Raheja Corp Group – 24.04.2008 to 23.11.2020.
 - The date of joining of the respondent in the K Raheja Corp Group – 24.04.2008
 - His date of tendering resignation in K Raheja Corp Group. – 28.05.2020
 - His date of release from service- 23.11.2020
 - His communication with the complainant for accepting the position of cost auditor in the group companies of K Raheja before undertaking cost audit during the FY 2021-22 – Yes
 - If the answer to para (v) above is in affirmative, please provide documentary evidence of such communication by speed post/registered post/courier and the like.- mentioned in para v above..
 - If communicated with made with the previous cost auditor through any of the above mentioned modes of communication as mentioned in para (vi) above, please provide what mode of communication did you adopt, if any, – mentioned in para v above.
 - In case of email communication, if any, to provide the source of such email i.e., your mode of obtaining such email id of the previous cost auditor.- email address of the complainant was obtained from the Institute website.
13. Similarly, an email dated 5th December 2023 was sent to the Membership Department of the Institute at or about 12.48 PM requesting the Department for providing the following information:
- Whether the respondent bearing membership number 23277 is a member in practice.
 - If yes, to provide the date of his application for Certificate of Practice. (Please attach M-3/M-5).
 - On which date was the Certificate of Practice issued by the Institute to the respondent.
 - Please also provide the email id of the member (i.e., the respondent)

The Membership department by an email dated 6th December 2023 at or about 5.08 PM provided the information as sought for which is reproduced in verbatim:

"Dear Sir,

As desired, replies to the queries are furnished below:





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- (i) Whether CMA Chirag Trilok Shah, bearing membership number 23277 is a member in practice. : Yes
- (ii) If yes, please provide the date of his application for Certificate of Practice. (Please attach M-3/M-5) : 02.09.2020 (M-3, M-5 attached)
- (iii) On which date was the Certificate of Practice issued by the Institute to CMA Chirag Trilok Shah? : 02/09/2020
- (iv) Please also provide the email id of the member.
: cshah5050@gmail.com / cmachiragtshah@gmail.com

Thanks & Regards,

TEAM MEMBERSHIP
THE INSTITUTE OF COST ACCOUNTANTS OF INDIA"

14. Another email dated 6th December 2023 was sent to the membership department at or about 11.26 AM requesting for the following information:

- (i) The present email ID of the complainant
- (ii) From which date such email ID has been recorded in the membership database?
- (iii) Does the member have any alternative email ID?
- (iv) If so, details of such an alternative email ID.
- (v) Whether the member has at any time during the last three years changed his email ID.

The Membership department by an email dated 6th December 2023 at or about 1.06 PM responded as follows:

Dear Sir,

As desired, the details are as under:

- (i) The present email ID of CMA V.V. Deodhar : vvdsvd@gmail.com
- (ii) From which date such email ID has been recorded in the membership database? : From 9th December 2012 (email copy attached)
- (iii) Does the member have any alternative email ID? : No.
- (iv) If so, details of such an alternative email ID. : No alternative email id recorded in the membership database.
- (v) Whether the member has at any time during the last three years changed his email ID: No.

Thanks & Regards,

TEAM MEMBERSHIP
THE INSTITUTE OF COST ACCOUNTANTS OF INDIA"





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15. The Disciplinary Directorate vide letter No. G/DD/Com-CA(104)/3/12/2023 dated 6th December 2023 sought the following information from K Raheja Group of Companies:

- a. A copy of the resignation letter dated 28th May 2020 tendered by the respondent
- b. A copy of the relieving letter dated 23rd November 2020 tendered by the respondent

This was duly provided by the company vide their letter dated 14th December 2023 which stated that:

- a. Acceptance of resignation dated 31.12.2020.
- b. Experience letter dated 31.12.2020.
 - c. Confirmation email on relieving date from the respondent's reporting Manager.

16. On a careful perusal of the complaint filed by the complainant it is observed that the complaint filed by the complainant is on the following four counts:
- i. Soliciting clients or professional work, either directly or indirectly by circular, advertisement, personal communication or interview or any other means. [Clause (6) of Part I of the First Schedule to the CWA Act, 1959.]
 - ii. Accepts a position as cost accountant previously held by another cost accountant in practice without first communicating with him in writing. [Clause (8) of Part I of the First Schedule to the CWA Act, 1959.]
 - iii. Undercutting of audit fees.
 - iv. Holding Certificate of Practice while in employment. [Clause (10) of Part I of the First Schedule to the CWA Act, 1959.]

Findings

17. Based on the facts and circumstances of the case and the records and documents available with the Disciplinary Committee, the Committee is of the view that:

- i) *The first allegation levelled by the complainant of violation of Clause (6) of Part I of the First Schedule to the CWA Act, 1959 does not hold any ground as there is nothing on record to prove that the respondent had solicited clients or professional work, either directly or indirectly by circular, advertisement, personal communication or interview or any other means.*
- ii) The second allegation that the respondent had accepted a position as cost accountant previously held by another cost accountant in practice without first communicating with him in writing in violation of Clause (8) of Part I of the First Schedule to the CWA Act, 1959 is subject to strict proof thereof. While it is true that the respondent has not been able to prove, either by a registered letter or by a speed post, or by a courier, that he had actually communicated with the previous cost auditor i.e., the complainant's firm before accepting the appointment as a cost auditor. But it is equally true that the respondent did send an email dated. 8TH April



AGL



DISCIPLINARY DIRECTORATE

2021 vvdsvdr@gmail.com which he had obtained from the Institute website. This has been stated by the respondent in his written statement., although from the email dated 6th December 2023 of the Membership Department it is revealed that the email id of the complainant is entirely different from the one stated by the respondent. The membership Department had attached with the email of 6th December 2023, an email dated 9th December 2012 addressed to the complainant to his email id vvdsvd@gmail.com by the then Addl. Secretary from his email id adlsecy.kolkata@icwai.org Thus, whether or not the respondent had emailed the complainant at his incorrect email id is a matter of *factum probandum* and in the absence of any cogent evidence against the respondent, the benefit of doubt must go to the respondent.

- iii) *The third allegation of undercutting is not a violation under the CWA Act, 1959.*
- iv) The fourth allegation of Holding Certificate of Practice while in employment apparently appears to be correct as the respondent was in full time employment with K Raheja & Group till 23rd November 2020 while he had obtained Certificate of Practice on 2nd September 2020. So for a period of two months 21 days, the respondent was in full time employment as well as in practice in violation of clause (10) of Part I of the First Schedule to the CWA Act, 1959]

18. In the 82nd (Adjourned) meeting of the Disciplinary Committee held on 11th March 2024, the prima facie opinion against the respondent was placed before the Committee in terms of Rule 9(2)(a)(ii) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 holding the respondent guilty but the same was not agreed to by the Committee. The learned members of the Committee deliberated at length over the matter and noted that *the respondent had duly intimated to the complainant vide his email dated 8th April 2021 based on the email id which he had obtained from the Institute website. The Committee also noted that the respondent had resigned from the services of K. Raheja Group of Companies on 28th May 2020 though the company relieved him as late as on 23rd November 2020. The certificate of Practice, in the meantime, was promptly issued on 2.09.2020. The respondent had applied for Certificate of Practice on 2nd September 2020 and on the same date it was issued. The company, however, relieved him later on, for which he could not be held responsible.*

19. It is also a fact that the respondent served K Raheja Group of companies for a fairly long time, the date of joining being on 24th April 2008, He had tendered resignation on 28th May 2020 i.e. at a date much earlier than the date for even applying for Certificate of Practice which he had on 2nd September 2020. *From this it is quite evident that the respondent did not have any malafide intention on his part. It is quite possible that having served for more than twelve years, there may have been a 'genuine' and 'pressing' business need for the company which delayed the release of the respondent by which time he had received the Certificate of practice from the Institute.*



Asl



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

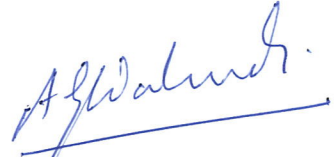
Telephones : 2252-1031/1034/1035
2252-1602/1492/1619
2252-7143/7373/2204
Mail id : discipline.director@icmai.in
Website : www.icmai.in

DISCIPLINARY DIRECTORATE

Order

20. From the foregoing, it is abundantly clear that the respondent, as a 'previous' cost auditor of K Raheja Corp Group had taken reasonable care and skill in complying with the various procedural formalities laid down in the Cost and Works Accountants Act, 1959 and the rules frame thereunder. His action was also bonafide and in accordance with the provisions of the Act and the rules and there was no violation of any of the clauses of the First or the second Schedule of the Cost and Works Accountants Act, 1959.
21. The instant complaint, therefore, lacks merit and the Committee unanimously agrees that the proceedings against the respondent be dropped and the matter is hereby closed in accordance with Rule 9(2)c) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
22. The matter stands disposed of.

March 27, 2024

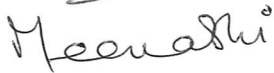

CMA Ashwin G Dalwadi
PRESIDING OFFICER

CMA M. K. Anand

CMA TCA Srinivasa Prasad

Shri Saraswati Prasad, IAS (Retd.)



Smt. Meenakshi Sharma, IA & A (Retd.)

