



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

(Statutory Body under an Act of Parliament)
CMA Bhawan, 3 Institutional Area,
Lodhi Road, New Delhi-110003

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

The Board of Discipline u/s 21A The Institute of Cost Accountants of India

Complaint No. Com/21-CA(79)/2019

CMA Shri Rahul Jain (M/35184) ----- Complainant

CMA Shri Aniruddh Gupta (M/29655)-----Respondent

ORDER

Dated 06/07/2020

1. Shri Rahul Jain filed a complaint dated 02/09/2019, 2018 against CMA Aniruddh Gupta (M/29655) in Form I along with requisite fee which was registered vide Complaint No.Com/21-CA (79)/2019.
2. The complaint was made on the following ground:
 - I. Being outstanding dues against CMA Aniruddh Gupta since Dec 17 till May 19. his membership be declared vacated as per clause 10(2) or Chapter's Bye-Laws.
 - II. Being outstanding dues as on 01/10/18 against CMA Aniruddh Gupta. his Election as committee member for the term 2019-23 be declared as null and void.
 - III. Due to filing or wrong declaration in the nomination Form for election 01 Chapter for the term 2019-23. CMA Aniruddh Gupta is guilty) For professional Misconduct **as per Second Schedule, Part II, clause (I) and (3) of The Cost & Works Accountants Act, hence the name of CMA Aniruddh Gupta he removed from the register permanently and line be imposed as may think fit as per section 21 B of Cost & Works Accountants Act.**
 - IV. Being outstanding dues against CMA Aniruddh Gupta as on 01/10/18, election as committee members or the candidates, whose name was proposed and/or seconded by CMA Aniruddh Gupta or any of the members whose dues was outstanding as on 01-10-2018. for the term 2019-23 be declared as null and void.
3. The respondent was intimated vide letter dated 11/09/2019 to send response to the complaint through a written statement in his defence within 21 days from the date of service of the letter.
4. The respondent vide his letter dated 25th September, 2019 denied the allegations made against him and stated inter alia as below:-
 1. At the outset the instant application is not maintainable since the Respondent herein has not violated Section 19(1)(e)(2) and Section 10(2) of the "The Cost Accountants' Chapter Bye-laws



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2019". It is submitted that the instant application filed by the Applicant is not at all maintainable (neither in law nor on facts) as the nomination fees is duly deposited by the respondent via Pay Order no. 266427, dated 10-10-2017 for Rs. 1000.00 Rupees one thousand only) submitted to the Indore- Dewas Chapter as mentioned by Applicant in his Annexure I and point no.1 of Applicant's subject matter in which it was mentioned that the pay order/DD was duly deposited with chapter office in charge election officer. Also, the said application is devoid of merits as the Applicant failed to make out any case for initiation of professional misconduct in relation to member of the institute vide Second Schedule, Part II, clause (1) and (5) of the Cost and Works Accountant Act, 1959. All the allegations made in the application are not true and denied unless and otherwise admitted by respondent hereunder.

2. That the Applicant and related persons evidencing the facts, has levied false allegations with bad intention to tarnish the image of the Respondent mentioning the outstanding dues of nomination fees of the respondent for term 2017-19 which was duly submitted by the respondent via Pay order no. 266427, dated 10-10-2017 for Rs.1000.00 (Rupees one thousand only) as mentioned in point 1 above, for his nomination fees of the elections of Managing Committee for the term 2017-19. as per Form-I' vide para 5 admitted and submitted with proof in the annexure given by applicant himself. Also its worthwhile to note that the non-lodgment of Pay Order because of the fault of the Indore-Dewas Chapter office bearer's ie., Chairman Treasurer/Secretary for term 2017-19 for Pay order/DD no. 266427, dated 10-10-2017 for Rs.1000.00 (Rupees one thousand only) which was duly submitted by the respondent to the Indore- Dewas Chapter for nomination fees, itself questions the office bearers who were elected for the term 2017-19 of which Applicant himself was the secretary for non-lodgement of pay order/DD of Respondent and hence respondent have fulfilled his duty towards payment of election nomination fees.
3. Now after Election for the term 2019-23. Applicant has levied false fabricated Charge of non-eligibility to contest the election of the Managing Committee (2019-23) and related consequences on the ground of declaration given in nomination form of election is totally baseless as the non lodgement of respondent's pay order/DD was not at all in knowledge of the respondent and respondent assumed that his duly prepaid pay order/DD is deemed compliance of his duty towards the chapter and its byelaws. It is also pertinent to mention here that possession of election documents (ie., Nomination form of Respondent) which is to be in the custody of the Indore-Dewas Chapter, are how available with the Applicant without any written request is a serious threat showing wrong intention of applicant and the related persons evidencing the facts? The Director (Discipline) is requested 10. ask/demand from the Applicant source and possession of documents without any authority and written request of applicant for the same?
4. That the lodgment of the Pay order / Demand draft in bank was the duly and responsibility of the Indore-Dewas Chapter and particularly Chairman/treasurer/secretary who is specifically responsible for the Chapter office financial operations as per the Chapter Bye-laws of the institute. Submitted Pay order/DD mentioned by the applicant in his annexure became stale, due to non lodgment by the Indore-Dewas Chapter and related chapter office bearers and the discrepancies were pointed in internal auditors report which were not rectified by the office bearers including applicant as the acting secretary. The duty and responsibility to lodge Pay order al with the bank is of the Chapter Chairman/treasurer/secretary (Applicant himself) and not of the candidate who nominated in the election after paying Demand Draft as Pay order/Demand Draft is a prepaid instrument as per Negotiable Instruments Act, 1881. The Applicant himself has proved in his



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complaint through the Form I that Pay order/DD, was duly deposited by the Respondent but said Pay order were not lodged by the Indore-Dewas Chapter staff/office bearers within the stipulated time with the bank therefore the said instrument became stale and amount exhibited as outstanding without any fault of the respondent. It is pertinent to mention here that earlier office bearers (in which Applicant himself was Secretary) have neither intimated the facts in writing nor handed over the pay order/DD to respondent for either to fresh issue or to the credit of the bank account, for which original instrument is compulsory required to be return to the drawer bank which was given without respondent's permission to a member CMA Sushil mantri as per Applicant's annexure II given by applicant himself shows the mismanagement and misconduct of office bearers (where Applicant himself is Secretary) who gave the pay order/DD of respondent to some other member without any power given by respondent in writing, shows conspiracy of the applicant (who was Secretary of earlier committee for term 2017-19) and related persons who evidenced the facts (1. Vijay Joshi, who is a partner with applicant in Vijay P. Joshi and Associates and 2. CMA Surendra Agrawal, who was Chairman of earlier committee for term 2018-19/ Vice Chairman for the term 2017-18) with applicant, to create false allegations on respondent (As Chairman of current management committee) to make the election void. (Respondent's Annexure A)

5. That the Applicant was the active member of the then Managing Committee (2017-19) of the Indore- Dewas Chapter formed on 19/12/17 after election of management committee for the term 2017-19 and holds position of the "Secretary" under whose tenure the Pay Order/DD was unlodged. Mr. Sachin Sanchora (Ex office bearer and election officer) has resigned w.e.f. 17-12-2017 as per records of the Indore-Dewas Chapter to whom it was mailed (on 18-05-18 as per Applicant's Annexure 1) by applicant and office bearers to return the pay order/DD within 72 hours of mail giving him a treat to file FIR against him, but its important to note that after this mail no written communication regarding the receipt of DD/pay order is given to respondent till date. The Respondent think that it is a story framed by the applicant and all office bearers to escape from their liability and its related consequences which would arise due to unlodged pay orders/DD, as office staff have resigned on 17/12/17 and mail is sent on 18/05/18 to the office in charge without giving any written statement to respondent regarding the pay order/DD) and its physical possession. For non lodgment/clearance of the Pay Order duly deposited by the Respondent at Chapter office as per Annexures to 'Form I', sole responsibility falls on the then management Committee for the period 2017-19 viz. (i) CMA Ravindra Dubey, Chairman (ii) CMA Surendra Agrawal, Vice Chairman (iii) CMA Rahul Jain, Secretary and (iv) CMA Sachin Bhagwatkar, treasurer. The then Management Committee (2017-19) is responsible and to be questioned for negligence in performance of duties or mis oppression of the Indore-Dewas Chapter for non lodgment of the Pay Order/DD.

The Director (Discipline) is requested to issue notices to the Office Bearers for the term (2017-19) and get explanation for non lodgment of Pay Orders in bank, as the Applicant was also Secretary of the Managing Committee (2017-19). After reply, if any, in the opinion of Director (Discipline) is thinks fit, can file a suo moto case based on the 'Form I' of the Applicant should be registered against the requisite Office bearers for the term (2017-19) including applicant for negligence in performance of duties or mis-oppression of Indore-Dewas Chapter as office bearers.

6. That for the supervision of election of Indore - Dewas Chapter for the term 2017-19, the election council from Kolkata has deputed Shri Subhasish Battacharya, as a supervisor. The Supervisor should have on inspection of election papers filed by various candidates, instructed to the Indore-Dewas



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Chapter 10 deposit Pay Order immediately in the bank before voting process begins or stopped the election process if he had found that Pay Orders were not encashed or would have withheld the result till clearance of the Pay Order lying un-deposited at the Indore-Dewas Chapter for which applicant is also guilty of misconduct or if he had intentionally kept the pay order/DD non lodged till elections is a question of fact to be asked by Director (Discipline).

7. The Applicant has cleverly attempted in order to keep in dark the office of the Director Discipline, and has filed doctored Internal Audit Report for the period 31-12-2018 (Annexure-III of the Applicant). The Internal Audit Report filed by the Applicant read as follows:

"2. Pay order amounting to Rs. of Rs. 6500 received from the various candicales at the time of Chapter office bearer election process has not been encashed in to the bank account till, date. The same has been stale as on 31-03-2018 and returned 10 the respective members The facts should be intimate to the Head Quarter immediately as The member is ineligible to vote and stand in election due in near future as per clause 19 of "The Cost Accountants' Chapters Bye-Laws, 2017" vide notification No. CMA (4)/2017 which states:

Whereas the internal Audit Report submitted by the internal auditor for the period ended 1-10-2018 to 31-12-2018 states:

"2. Pay order amounting to Rs of Rs.6500 received from the various candidates all the Time of Chapter office bearer election process has not been encashed in to the bank account till date. The same has been stale as on 31-03-2018 and returned to the respective members. The Chapter has adjusted amount recoverable from one of the member while releasing the payment towards Honorarium to faculty. Election candidature fees cannot be adjusted out of future earnings. The facts should be intimate to the Head Quarter immediately as the member is ineligible to vote and stand in election due in near future as per clause 19 of "The Cost Accountants' Chapters Bye-Laws, 2017" vide notification No. CMA (4)/2017 which states: "

The following lines viz.

"The Chapter has adjusted amount recoverable from one of the member while releasing the payment towards Honorarium to faculty. Election candidature fees cannot be adjusted out of future earnings" (Respondent's Annexure B) has intentionally deleted by the Applicant as the amount adjusted is of the Respondent regarding the adjustment of the due amount with respect to his nomination fees (voucher copy is attached in Respondent's Annexure B). This shows the worst intention by showing the forgery and manipulation in the internal audit report, by the applicant and related persons who evidenced the facts, against respondent.

The respondent is embarrassed; and shocked, when lie got to know that the pending dues were already adjusted vide voucher no. 135 by the office bearers (Applicant is Secretary) on 04/12/18, then why intentionally with bad intentions the outstanding, dues is shown against the respondent and allegations made by the applicant in para I point 5 of "Form I" regarding respondent's outstanding dues from Dec.17 to May 19, who have given the nomination fees to the chapter already twice.



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Further full reading of Internal Audit Reports i.e. 31-12-2018 and 31-03-2019 (Respondent's Annexure clearly exhibit negligence and bad intention on the part of the then office Bearers (2017-19) in the performance of duties and mis oppression on Indore-Dewas Chapter whose dues were already adjusted and exhibited in internal audit report in Respondent's Annexure B

The Director (Discipline) should suo, moto take necessary action and file case of professional misconduct on Applicant and persons who witnessed the facts for some grave submission of doctined Internal Audit Report and forged evidence to misguide the Director (Discipline) and tarnish not only the image of the Respondent but also severe blow to the image of the Institute by false fabricated allegations.

8. That the Applicant has filed as an evidence as per Applicant's Annexure VI, an e-mail by election officer seeking seeking clarification from the Dy. Director, Membership Department dated 15/04/19 and 16/04/19 towards removable of six members including respondent from the voting list of members of the Indore-Dewas Chapter. It is pertinent to mention here that in order to keep in the dark the office of the Director (Discipline), the Applicant and related persons who have evidenced the facts has cleverly attempted to hide with the bad intention and tampering the image of institute some other" e-mails dated 28/04/19, 30/04/19 and 16/05/19.(Respondent's Annexure. C) in which instructions were received from HO and election council to restore the names deleted by election officer. The election officer thereafter have included the name of respondent in email dated 30/04/19 and 16/05/19 attached in Respondent's Annexure C. By this the Applicant has challenged the powers of the election council inspite of sub section (9) of section 19 of the "The Cost Accountants' Chapter Bye-laws, 2019". The section state:

"Appeals and Election Code of Conduct:-

The decision of the Secretary of the Institute or in the absence of the Secretary, any such officer as designated in this behalf by the council, shall be final in this regard"

The election officer of the Indore-Dewas Chapter has sought the ancome Election Council vide Annexure VI of the Applicant, in the matter of outstanding amount in the name of the Respondent due to non lodgment of Pay orders by the Indore-Dewas Chapter. The e-mail dated 28/04/19 and 30/04/19 received from Bhavesh Kumar Sinha (Deputy Director, HR and Admin) and Mr. Abhishek Gupta (Election Officer) respectively as per Respondent's Annexure C, has restored the name of respondent in voter list as well as eligible members to file the nomination. Therefore this is an intentional allegation with deceptive intentions by the Applicant and related persons giving evidence, to tarnish the image of the Respondent as well as the Institute after completion of the election and declaration of results.

9. The respondent is totally shocked and embarrassed because of this manipulated and false complaint with bad intentions, based on fabricated and baseless evidences, due to which Respondent is undergoing so much mental/physical torture together with professional/economical losses and hence as per these circumstances, the Respondent reserves his right to add/amend this submission in future.



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PRAYER

1. The Respondent Pray, to reject outright the complaint filed by the Applicant and the related persons who evidenced the case, which was done with baseless facts, fabricated evidences and malafide intentions.
 2. As per legal compliance the elections contested by the respondent is fair and lawful complying all the needful procedures. Therefore it is requested 10 quash the complaint maintaining the elections valid in the eyes of law.
 3. The Director (Discipline), is hereby requested to initiate misconduct proceedings against the Applicant, his related parties witnessing the facts and then the office bearers for the term 2017-19 for furnishing false and labrigated evidences and breach of duty/responsibility as office bearers.
 4. The applicant and related persons evidencing the facts shall be held guilty for professional misconduct as per Second schedule, Part II, clause (1) and (3) of The Cost and Works Accountants Act, due to filing of wrong information, fabricated evidences and intentionally hiding the mail received from 110/election council/election officer. Hence the name of applicant and related persons evidencing the facts (1. CMA Vijay Joshi 2. CMA Surendra Agrawal) should be removed from the register of members permanently and line shall be imposed as Director (Discipline) thinks fit as per section 21B of Cost and Works Accountant Act.
 5. Any other severe action on the Applicant and related persons evidencing the facts, as deemed tit by the Director (Discipline) for filing doctrine Internal audit Report and hiding the instructions by email received by the HO/election council/election officer.
 6. Any other remedy to the respondent from the applicant.
-
5. The written statement of the respondent was sent to the complainant vide letter dated 15/10/2019 for sending rejoinder on the same.
 6. In rejoinder dated 06/11/2019 Shri CMA Aniruddh Gupta, had submitted on the written statement that:

Reply No 1

In support of allegation made by me that CMA Aniruddh Gupta has violated Clause 10 (2) & 19 (2) of the The Cost & Works Accountants of Chapter Bye-Laws, I had already submitted various grounds along with



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documents from Annexure-I to Annexure-VII along with my original complaint number **Com/21-CA (79)/2019**, which are not required to be reiterated.

It is mentioned in the minutes of meeting dt 19/12/17 (First meeting of Managing Committee 2017-2019), in which CMA Aniruddh Gupta was also present, **(Copy enclosed at Annexure-VIII)** under Item No. 2 that "A list of documents was handed over by new committee to Shri Saurabh Parikh Ex Vice Chairman with a request to hand over all document within a week. It is also mentioned in the minutes of meeting dt 19/01/18, in which CMA Aniruddh Gupta was also present, under item no 1 **(Copy enclosed at Annexure-IX)** that "there was no proper handover of office charge to new staff and Managing Committee". It is evident from the above that DDs were with either Office In charge Mr. SachinSachora or with old Office bearers (2015-2017) as on 19/01/18. In old Office bearers (2015-2017)

CMA Saurabh Parikh was Vice Chairman

CMA Satish Gupta was Secretary

CMA SudeepSaxena was Treasurer

The DDs were not presented to the bank by them till 19/01/18. DD's were drawn on 10/10/17 and not handed over as on 19/01/18 by that time DDs became stalled. CMA Aniruddh Gupta was well aware that DD's were not handed over to New Committee 20172019 as on 19-01-2018 and became time barred and could not be presented to the bank by Office In charge Mr. SachinSachora or by old Office bearers 2015-2017, he would had taken initiative to collect DD's and deposit Nomination fees.

Reply No.2

It is denied that allegation made by me is false and Bad intention to tarnish the Image of respondent for support of allegation, I had already submitted various evidences/documents as mention in Reply No-1.

It is also denied that the non-lodgment of pay order was due to the fault of indore-Dewas chapter office bearers for the term 2017-2019. Since the DD's Were in possession Office in Charge Mr. SachinSachora and Office bearers of 2015-2017 as on 19-01-2018, on which date DD become stale, the whole responsibility for not presenting DD's to the Bank was of Office In Charge Mr. SachinSachora and Office bearers of 2015-2017. It is clarified in the reply no. 1 that CMA Aniruddh Gupta was well aware that DD's were not handed over to New Office Bearers 2017-2019 as on 19-01-2018 and became time barred and could not be presented to the bank by Office In charge Mr. SachinSachora or by old Office bearers 2015-2017, he would had taken initiative to collect DD's and deposit nomination fees.

Reply No.3

Allegation made by CMA Aniruddh Gupta for false fabricated charges is baseless. On 1805-2018 Chairman and Secretary of the Chapter have sent the mail to Office in Charge Mr. SachinSachora and CC to all Concerning Members including CMA Aniruddh Gupta with a direction to return all DD's with a period of



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72 hours. It is clear that mail dt 18/05/18 (i.e. prior to 01/10/18) sent to Mr. SachinSachora was in his knowledge. He also knows that DD's were drawn on 10/10/17 and mail sent to Mr. SachinSachora and CC to all Concerning Members including CMA Aniruddh Gupta on **18/05/18 i.e. after a lapse of more than five months. Being a Professional Member as a Cost Accountant, he must know that DD's became stale and cannot be presented before the bank**, his statement that "the non- lodgment of respondent pay order/ DD was not at all in the knowledge of respondent and respondent assume that his duly prepaid pay order / DD is deemed compliance of his duty towards the chapter and the Bye-laws" is false and baseless.

Documents related to election including nomination form are not confidential documents after declaration of result but became public documents.

Being a Committee Member, I have right to access the documents of the chapter.

If any abnormality and/or violation of rules and regulation is observed, it is the duty of member to report to HO regarding abnormality and/or violation of rules and regulation to take corrective action.

There were no mis-possession of the documents from the chapter premises at any time.

The present complaint is made against the elected member of the chapter who has filed nomination form with false declaration for being elected as the office bearer of the chapter. Such serious complaint has to be enquired on the merit of the allegations complained. The facts of the complaint are of much greater importance compare to the process by which document accompanied with the complaint are obtained. By raising the question on the documents are obtained, an attempt is been made to manipulate the enquiry and diverts towards deciding the lawfulness of the procedure aspect of obtaining documents instead of going into truthfulness of the complaint and its merit. This, the concerned enquiry initiated to check the allegations made in the complaint and also whether any fraud is played during the election process or not, the Disciplinary Committee should remain focus on finding the truth of matter which is of great significance.

Copies of nomination form filed before Disciplinary Committee were with the sole objective of substantiating the fact of mis-conduct cannot be termed as dishonest misappropriation.

In the judgement of various courts, including a recent judgment passed by the Hon'ble Supreme Court, it was held that filing of documents before a judicial authority shall not simpliciter amount to dishonest act. In cases where such documents are replicated solely with the purpose of placing them before a judicial authority to substantiate a claim, no dishonest intention would be made out.

Reply No. 4

It is already mention in reply no 1 & reply no 3 that the above that DD's were with either Office In charge Mr. SachinSachora or with old Office bearers 2015-2017 as on 19/01/18 and also as 18-05-2018 . In old office bearers (2015-2017) CMA Saurabh Parikh was Vice Chairman, CMA Satish Gupta was Secretary and



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CMA SudeepSaxena was Treasurer. The DD's were not presented to the bank by them till 18/05/18. DDs were drawn on 10/10/17 and not handed over to New Office Bearers 2017-2019 as on 18/05/18 (Date of Mail sent by Chairman and Secretary with a CC to CMA AniruddhGupta) by that time DDs became stalled. CMA Aniruddh Gupta was well aware that DDs were not handed over to New Office Bearers 2017-2019 as on 18-05-2018 and became time barred and could not be presented to the bank by Office In Charge Mr. SachinSachora or by old Office bearers 2015-2017, he would had taken initiative to collect DD and deposit nomination fee.

It is evident from the above that responsibility to present the DD's before the bank was not of office bearer 2017-2019 but was of office bearers 2015-2017, DD's was in whose possession before the date of state of DD's.

Matter were discussed many times with the members whose dues were outstanding. CMA Sushil Mantri came forward and informed that since DD's were drawn by the Office in charge and Election Officer Shri SachinSachora. He assured that he will contact Shri Sachora and get DD's cancelled through Shri Sachora. After discussion with office bearers of the committee, Office In charge handed over DD's to CMA Sushil Mantri under intimation to other candidates including CMA Aniruddh Gupta. Allegation of Mismanagement and mis conduct was baseless and denied.

Facts evidenced by CMA Vijay Joshi and CMA Surendra Agrawal are the member of the institute hence they can evidenced the facts.

Reply No 5

DD's were in possession of then office in charge Mr. Sachin Sachora and he deliberately not presented to the bank on the instruction of Old office bearers 2015-2017 so that they can shift the responsibility to the new office bearers 2017-2019. Mr. Sachin Sachora was full time employee of the chapter, who was appointed by Managing Committee for the term 2015-17 without following the due procedure and interview with an object that he will favor and support them. He has been awarded hike of salary from Rs 12000/- to 17250/within a short span of two years. Hike of Rs. 17250/-pm from Rs. 15000/-pm was given to Shri Sachin in the meeting of Managing Committee dt 30/09/17 in which Mr. Sachin Sachora was appointed as Election Officer with an object that he will support office bearers.

Mr. SachinSachora was the Election Officer for the election for the term 2017-19, in spite of this he had drawn the DDs for nomination on behalf of candidates including CMA Aniruddh Gupta which is misconduct of serious nature on the part of election officer as well as on the part CMA Aniruddh Gupta. Being Judicial Authority Disciplinary Committee may ask the details of DDs submitted by CMA Aniruddh Gupta from the bank.

Old office bearers (2015-2017) had informed to New office bearers (2017-2019) that Mr. SachinSachora had resigned. He was election officer till the declaration of result i.e. till 17/12/2017. I have never seen his resignation in office record moreover after the declaration of results office bearers of 2015-2017 has no



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authority to accept his resignation, I afraid that old bearers of 2015-2017 might have taken his resignation in the previous date and accepted by them also in previous date. Even after his so-called resignation he never turned up to the office and not handed over documents the New office bearers till 18-05-2018.

It is already mentioned in forgoing para's that DDs were drawn on 10/10/17 and not handed over to New office Bearers 2017-2019 as on 18/05/18 (Date of Mail sent by Chairman and Secretary with a CC to CMA Aniruddh Gupta) by that time DDs became stalled. CMA Aniruddh Gupta was well aware that DDs were not handed over to New Office Bearers 2017-2019 as on 18-05-2018 and became time barred and could not be presented to the bank by Office In charge Mr. Sachin Sachora or by old Office bearers 2015-2017, he would had taken initiative to collect DD and deposit nomination fee.

It is evident from the above that responsibility to present the DD's before the bank was not of office bearer 2017-2019 but was of office bearers 2015-2017, DD's was in whose possession before the date of stale of DD's.

Reply No 6

It is already mention in aforesaid para that DD's were not in possession of Office bearers 2017-2019 as evident from minutes of Meeting dated 19-12-2018 and 19-01-2018 and mail dated 18-05-2018. Responsibility to present the DD's before the bank immediately after the last date filling of Nomination for election that is 11-10-2017 as per notification dated 05-10-2017, was of then office in charge / Old office bearer 2015-2017. Allegation made on me is false and baseless.

Reply No 7

Para-10 & 11 of my original complaint number Com/CA/ (79)/2019 are reproduced below

"10. That, these dues are also outstanding as on 01/10/18, therefore concerning members including CMA Aniruddh Gupta are not eligible to cast vote and also to contest election for the term 2019-23 as per clause 19(2) of Chapter's Bye-Laws which is reproduced below:

19. Election to the Managing Committee:

(2) Members eligible to vote and stand in election- Every member of the Chapter who is a member of the Institute and who is otherwise not disqualified to continue as a member under Clause 9 or Clause 10 of these Bye-laws and whose respective entrance fees annual membership fees and other dues to the Institute are not in arrears on the 1st day of October of the year immediately previous to the year in which the election to the Managing Committee of the Chapter is to take place or student of the Institute, shall be eligible to vote in election and stand for election of such member complies with the provisions of Sub-clause (1) of Clause 9 within 31st day of March of the year in which the election to the Managing Committee of Chapter is to take place.



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The above clause cannot be over ruled by any of the office bearer/officials of the institute until and otherwise the same is amended by competent Authority.

11. That, this fact is mentioned by Internal Auditor in his report for the quarter Oct-Dec 2018 and for the year 2017-18. This is also mentioned by Statutory Auditor in his report for the year 2017-18. (Relevant portions of the reports are at Annexure-III)."

In the Internal Audit report for the April-2018 to September 2018 and also October to December-2018 it was mention by the Auditor that "Pay order amounting to Rs of Rs.6500 received from the various candidates at the time of Chapter office bearer election process has not been encashed in to the bank account till date. The same has been stale as on 31-03-2018 and returned to the respective members" both the report can be attached for supporting para no-11 but due to oversight copy of reports for the April2018 to September 2018 was attached instead of October-2018 to December-2018 this makes no difference on the complaint.

It is true that dues were adjusted vide voucher no 135 on 04/12/2018 outstanding dues was from Dec-17 to 04-December-2018. My complaint to the Disciplinary Committee was based on dues outstanding 01-10-2018 and false declaration that no arrears of my entrance fees, annual membership fees of the institute and other dues as on 01-10-2018 were pending. It will have no impact to mention to May-2019 instead of 04-December-2018 on the complaint.

Reply No 8

He was well aware regarding due outstanding against him by way of various mails & minutes of Meeting as mentioned in foregoing paras. Vide e-mail dt 12/4/19 (AnnexureV), 16/4/19 (1.41pm) and 16/4/19 (2.38pm) (Annexure-VI) chapter intimated the facts to HO, thereafter name of six members were deleted by HO.

Decision of removing the name of six members was taken by HO and intimated vide e-mail dt 15/04/19 at 5.07pm (Annexure-IV with original complaint) vide mail dt 12/4/19 (Annexure-V), 16/4/19 (1.41pm) and 16/4/19 (2.38pm) (Annexure-VI) chapter intimated the facts and clarifications to HO, thereafter name of six members were deleted by HO hence allegation to keep in the dark the office of Director Discipline and related person who have evidence the facts clearly attempted to height with the bad intension is false and baseless.

Reply No 9

I have filed complaint for False declaration regarding dues outstanding as on 01-10-2018. After notification of election and till the declaration of results, all function related to Election was of election officer. There is no involvement of office bearer 2017-2019 in the election process. Deleting the name of some members and thereafter adding in the voting list were not known to office bearers 2017-2019



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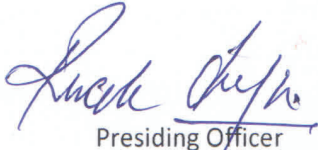
including my self during election periods. We had neither filed appeal or complaint regarding renewal of six member during the election period hence sub section (9) of section 19 is not applicable in this case.

From the para's, it is crystal clear than dues were outstanding as on 01-10-2018 against CMA Aniruddha Gupta he had filed nomination with false declaration Complaint made by me are based on facts and figures.

Prayer:-

1. CMA Aniruddh Gupta Committed serious misconduct by filing false declaration. To avoid such type of misconduct by the member in future and to maintain the dignity of the Institute, it is requested to hear this complaint on merit and penalize the member in default.
2. It is also requested to preserve my right to place additional evidences at the time of bearing.
7. The above-mentioned Complaint has been examined in pursuance of Section 21 of the Cost and Works 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. It is observed that there was nothing on record to prove the allegations against the respondent and the Complainant has not been able to adduce any evidence regarding the same.
8. On perusal of the Complaint, written statement, prima facie opinion of the Director (Discipline), related material on record and in totality of all the facts and circumstances of the case, the Board arrived at the conclusion that there was nothing on record to prove the allegations against the respondent and the Complainant has not been able to adduce any evidence regarding the same. After detailed deliberations, the Board decided to order for closure of the matter in accordance with Rule 9(3) (a) of the Cost and Works Accountants (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 and inform the Complainant and the Respondent accordingly.

Accordingly, the complaint stands disposed off.


Presiding Officer