



**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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Mail id : discipline.director@icmai.in
Website: : www.icmai.in

DISCIPLINARY DIRECTORATE

**The Institute of Cost Accountants of India
Board of Discipline u/s 21A of The Cost and Works Accountants
Act 1959**

**In the matter of:
Complaint No. Com/21-CA(111)/2022**

Shri M.B. Kaka (M/13599).....Complainant

Vs

CMA Ashwin Dalwadi (M/8996).....Respondent

Quorum

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

Order

Facts:

1. Shri M.B. Kaka (M/13599), since deceased (hereinafter referred to as the "complainant") filed a complaint in triplicate in Form I dated 27th July 2022 against CMA Ashwin Dalwadi (hereinafter referred to as the 'respondent') bearing membership number 8996 together with the requisite fee as prescribed, under Rule 4 of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of cases) Rules, 2007 read with Regulation 15B(1) of the Cost and Works Accountants Regulations, 1959.
2. The complaint, as depicted in Form I, as well as the write up accompanying the complaint, is reproduced below in verbatim:

Quote



FORM I

1

APT



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(See sub-rule (1) of Rule 3)

1.	Name of the Complainant : (with membership number, if member of Institute of Cost Accountants of India)	CMA M.B. Kaka Membership No. 13599
2.	Name of the member/firm against whom complaint is being made: (with membership number/registration number of the firm, if known)	Shri Ashwin Dalwadi Membership No. 8996
3.	Last address of the complainant for communication.	CMA M B Kaka Address: A-57 SAI SARJAN SOC, Sun Pharma Rd. Atladara, Vadodara, Gujarat— 390012
4.	Last available professional address of the Member or the firm against whom the complaint is made	Address: Dalwadi and Associates 403, Ashirwad Complex, Next To Aditya Building, B/H, Sardar Patel SevaSamaj, Nr. Mithakhali Six Roads, Ahmedabad- 380006
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>1. As per information available, Microvista Technologies issued invoice dated 3rd November 2020 on Baroda Chapter of Cost Accountants asking for payment of Rs. 1,10,000 plus GST for some work performed by them. Also the same invoice was paid to Micovista Technologies before 31st March 2021. This whole transaction was completed during the Financial Year 20-21.</p> <p>2. During the whole year Shri Ashwin Dalwadi and his son Shri Mallhar Dalwadi were Directors on the board and were receiving 10% profits per person.</p> <p>3. Shri Ashwin Dalwadi is Central Council Member of Institute from July 2019 till 31st March 2021 till the time this transaction took place.</p> <p>4. As per Regulation 132 (2) of the CWA Regulations. Funds cannot be applied/paid directly or indirectly to any of the RCM or CCM unless it is reimbursement of expenses. The invoice issued by Microvista Technologies is not for any reimbursement of expenses but for Profit of the Company.</p>



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		<p>5. Similar provisions are there in Chapter Bye laws wherein Shri Malhar Dalwadi is elected member of Ahmedabad Chapter. The relevant provisions are the second provision to Bye Law No. 25(2).</p> <p>6. A enquiry also to be conducted for all Chapters in Country about payment made to Microvista Technologies from 2015-2022 particularly of Baroda and Ahmedabad Chapter of Cost Accountants.</p> <p>7. Both Ashwin Dalwadi are holding Certificate of Practice and also now having directorship of Company and holding 10% of shares each. This is violation of First Schedule Part I clause 10 which says that engagement in business other than that of cost accountancy is prohibited. Looking at Invoice issued by Microvista Technologies shows they are in business of Mobile Application and Website Development which cannot be occupation of any Practicing Cost Accountants. By holding 10% shares in this company which is doing a work not permitted by Law they both are engaged in Business and Occupation related to Information Technology (IT)</p>
6.	Particulars of evidence(s) adduced in support of the allegations(s) made	<ol style="list-style-type: none">1. FORM DIR 12 of Microvista Technologies.2. Invoice issued by Microvista Technologies to Baroda Chapter of Cost Accountants.3. Other Miscellaneous Documents related to Audit of Baroda Chapter of Cost Accountants collected in due process or under RTI.4. DD No. 500466 dated 26th July 2022.
7.	Name(s) of person who have knowledge of the facts of the case.	<ol style="list-style-type: none">1. Shri Y.S. Thakar2. Shri Ashish Bhavsar3. Mihir Vyas4. Hardik Diwanji

FRAUD DONE BY BARODA CHAPTER OF COST ACCOUNTANTS IN CRIMINAL CONSPIRACY WITH CENTRAL COUNCIL MEMBER MR. A.G. DALWADI



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- It has been placed on record that Baroda Chapter of Cost Accountants has taken budget approval vide resolution dated 20.02.2020 for Rs. 1 Lakh.
- Then Secretary Mr. Mihir Vyas who is also Branch Incharge of A.G. Dalwadi & Co. who himself is Central Council Member and Head of Information Technology Committee of ICMAI for the year 2019-20 & 2020-21.
- Also M/s. Diwanji & co. in which Mr. Mihir Vyas was and is Partner is having clear business relationship with M/s. A.G. Dalwadi & Co.
- Also, without floating any tender to M/s. Microvista Technologies Pvt. Ltd. in which Mr. A.G. Dalwadi is Director, the said company has submitted Proposal without any receipt of tender to M/s. Microvista Technologies Pvt. Ltd. without date of Proposal.
- Prima Facie, no tender was issued to any bidder and no tendering procedure has been done by Tender Committee of Baroda Chapter of Cost Accountants.
- Other Fake quotations were collected without date and without any tendering procedure.
- Also No Work order was issued in favour of M/s. Microvista Technologies Pvt. Ltd. as well as full payment was done to M/s. Microvista Technologies Pvt. Ltd. without management committee approval for their invoice dated 09.11.2021.
- It is pertinent to say that the tenders floated were not put on notice board and was not published in any newspaper, website and notice board and the collected quotations were part of fake tendering procedure.
- Since no tendering procedure has been followed, regular contract terms like
 1. Terms of Payment.
 2. Security Deposit
 3. Earnest Money deposit
 4. Liquidation damages
 5. Period of Completion etc. were missing from tender procedure.
- Also the terms of payment quoted by each bidder were accepted by Baroda Chapter tender Committee.
- Also except Microvista Technologies Pvt. Ltd. all other bidders have quoted bids with AMC charges which itself is non-comparative and favour to Microvista Technologies Pvt. Ltd.
- Also to hide the said fraud full amount of Android application and website expense were booked as revenue expenditure instead of capital expenditure which is against accounting principles.
- The said amount was intentionally booked as capital expenditure instead of revenue expenditure as Baroda Chapter was not having Capital Budget approval from Region.
- Also Abuse of Delegation of power was done as Chairman of Chapter has only powers of Rs. 25000/- as per Delegation of power of Institute.
- It is pertinent from the facts that Auditor of Baroda Chapter of Cost Accountants is also Partner of Diwanji & Associates Firm No. 100227 in which then Secretary Mr. Mihir Vyas and Jt. Secretary Mrs. Amruta Thapa (Vyas) are also partners & the firm is having business relationship with Mr. A.G. Dalwadi who is director of Microvista Technologies Pvt. Ltd. and Chairman is son of Mr. S.V. Diwanji Lead Partner of Diwanji & Co.



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- Also no related party transactions have been disclosed by Baroda Chapter of Cost Accountants as Mr. Dalwadi is Central Council Member of Institute and his company has been awarded work by Chapter of Institute.
- Also during AGM for 2020-21, Mr. Y.S. Thakar, Committee member of Baroda Chapter of Cost Accountants and Mr. M. B. Kaka Member of Baroda Chapter has raised this since but no response was received as full advance payment without work order was made to Microvista Technologies Pvt. Ltd. and reply was intentionally neglected by Chairman and Secretary to save their own skin.
- Even after repeated reminders by Mr. M.B. Kaka, no response was received and then RTI was filed by Mr. M.B. Kaka for said documents. After receiving RTI, Chairman and secretary arranged for above mentioned quotations without date, however no tendering documents are still available on record.
- The above mentioned act is clear case of
 1. Siphoning of public money.
 2. Abuse of Power by Chairman and Secretary of Baroda Chapter of Cost Accountants.
 3. Money Laundering.
 4. Fake Quotations, vouching and audit.
 5. Audit of Accounts done by Related party viz. partner of Secretary of Baroda Chapter of Cost Accountants.
 6. Non-disclosure of Related party transaction in books of Accounts
 7. Fake accounting of capital expense as revenue expense. Which made Accounts of whole institute as fake fraudulent and unfair.
- Here Mr. Mihir Vyas Secretary has intentionally favoured M/s. Microvista technologies Pvt. Ltd. having Central Council member Mr. A.G. Dalwadi under his undue influence for monetary benefit of central council member.
- In similar such case, ICMAI disciplinary directorate has already passed order a similar order issued by Disciplinary Directorate in the matter of Shri A.B. NAWAL is attached for ready reference. (Only difference is in the case of Shri A.B. NAWAL his wife was involved and here Partner/Branch Incharge is related party).

THE SAID ACT OF MIHIR VYAS HAS CLEARLY ATTRACTED PROVISIONS OF CHAPTER BYE LAWS STATING PROVIDED THAT "NO FUNDS OF THE CHAPTER SHALL BE APPLIED DIRECTLY OR INDIRECTLY FOR PAYMENT OF MEMBERS OF MANAGEMENT COMMITTEE OF CHAPTERS EXCEPT FOR REIMBURSING FOR ANY EXPENSE INCURRED BY THEM FOR BUSINESS OF CHAPTER."

HENCE THE SAID ACT DONE BY MR. MIHIR VYAS HAS

1. DEVIATED CVC CIRCULAR OF CONFLICT OF INTEREST
2. DEVIATED DELEGATION OF POWER.
3. ADOPTED FAKE TENDERING PROCEDURE
4. NO APPROVAL FROM HQRS. OR IT COMMITTEE OF INSTITUTE
5. CREATED FAKE QUOTES TO SUPPORT QUOTATION GIVEN BY AWARDED PARTY.
6. SIPHONED OFF PUBLIC MONEY IN THE FIRM IN WHICH CHAIRMAN OF IT COMMITTEE OF INSTITUTE IS DIRECTOR VIZ A G DALWADI IS ALSO



APD *CD*



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DIRECTOR OF MICROVISTA TECHNOLOGIES PVT. LTD. AND CHAIRMAN OF
IT COMMITTEE OF ICMAI.

7. AWARDED WORK WITHOUT WORK ORDER.
8. BOOKED WEBSITE AND ANDROID APPLICATION EXPENSES IN REVENUE EXPENSE INSTEAD OF CAPITAL EXPENSE.
9. HAS NOT DISCLOSED HIS RELATION WITH MICROVISTA TECHNOLOGIES PVT. LTD. IN AUDITED ACCOUNTS. THE SAID ACT OF MR. MIHIR VYAS HAS CLEARLY ATTRACTED PROVISIONS OF PART IV OTHER MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY

(2) in the opinion of the Council he brings relevant Schedule(s), disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

THE SAID ACT OF MIHIR VYAS HAS CLEARLY ATTRACTED PROVISIONS OF PART II PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY

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

THE SAID ACT OF MIHIR VYAS HAS CLEARLY ATTRACTED PROVISIONS OF THE SECOND SCHEDULE [See section 21(3), 21B(3) and 22] PART I PROFESSIONAL MISCONDUCT IN RELATION TO COST ACCOUNTANTS IN PRACTICE.

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

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

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

Encl :

Documentary evidence for above.”

3. The complaint dated 27th July 2022 was sent to the respondent vide letter No. G/DD/Com-CA(111)/(M-8996)/1/08/2022 dated 8th August 2022 in terms of sub-rule (3) of Rule 8 of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 with a request to send his response through a written statement in his defence within 21 days from the date of service of this letter.
4. The respondent, vide letter dated 18th August 2022, submitted his response in defence by way of a written statement which is reproduced below in verbatim:

“Sir,

Sub: Complaint No.: Com/21-CA(111)/2022 – CMA M B Kaka (M/13599) Vs. CMA Ashwin Dalwadi(M/8996)

Ref.: G/DD/Com-CA-(111)/(M/8996)/1/08/22 dated 08-08-2022



APT
[Signature]



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I am in receipt of the above referred letter from your end.

I solely deny all objections raised by the complainant. First of all, I am of the opinion that the complaint is defective on following grounds:

1. Many pages which have been enclosed with Form I as annexures are not legible at all. This poses problem as the same cannot be read at all. The complainant must appreciate that natural justice demands that I must be given full opportunity to study the complaint in order to prepare the reply and submit my written statement.
2. The complainant has not numbered the documents attached to Form – I.
3. The complainant has not disclosed any reference with the allegations levelled in para 5 of the Form- I. It therefore appears that the intention of the complainant is just to file a frivolous complaint against me without any evidence or proof.

Such thing is not expected from a CMA professional who has retired from a post of CFO of the Government company.

Though many pages of the complaint are illegible and the complaint itself lacks merit and has no basis whatsoever yet, respecting the dignity of the Disciplinary Directorate, I would like to respond to your letter within the limitations mentioned above with an expectation of providing prompt justice. I also reserve my rights to respond later if the complainant tries to counter my response provided to you. Of course, it may be noted that he shall not be permitted to add or revise or make any correction to his complaint whatsoever in the nature based on this reply.

At the outset, I would like to place on record that all allegations are baseless and are based on biased and vivid imaginations having no merits and request you to reject the complaint forthwith.

My reply against the allegations made in para 5 of Form – I are as under:

1. Invoice raised by Microvista Technologies Pvt. Ltd. on Baroda Chapter of Cost Accountants.

This is not an allegation. I don't deny the fact. Thus, it is true that Microvista Technologies Pvt. Ltd. had raised the said invoice dated 9th November 2020 towards mobile application development charges both are android platform & iOS platform and website development charges on Baroda Chapter of Cost Accountants.

2. About the Directorship of Microvista Technologies Pvt. Ltd. and receipt of 10% profit.

Yes, We, myself and my son- Malhar Dalwadi, were non-executive directors in the said company holding 10% equity shares each in the company. This start-up was setup by one of our family members having excellent background in the area of Information Technology. This fact is very well known to the complainant himself based on MGT- 7 which has been attached to his complaint by him only (I am sorry



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DISCIPLINARY DIRECTORATE

that I am not able to provide you the page reference, since it is provided by the complainant but refer para VII of said MGT-7). We were not Whole-time directors or KMP as defined under Section 2(51) of the Companies Act, 2013.

3. CMA Ashwin Dalwadi was a Central Council Member of the Institute on the date of transaction.

Yes, I am a Central Council member. How it leads to a conclusion that I am able to influence the Institute's functioning. As council member, my role is to set policies of the Institute and there is no role in any administrative functions. Then, how becoming a Council member of the Institute leads to any professional misconduct?

4. Applicability of Regulation 132(2) of the CWA Regulations, 1959.

The Regulation 132(2) reads:

“No part of the funds of a Regional Council shall be expended unless, bills, invoices and in the event of bills /invoices are not available, vouchers signed by the competent persons are produced before competent authority of the Regional Council and such authority is satisfied that the expenses are genuine and authorized:

Provided that no funds thereof shall be applied either directly or indirectly for the payment to members of the Regional Council or the Officers and staff of the Regional Council except for the reimbursing them for any expenses incurred by them in connection of the business of the Regional Council in the region concerned unless prior approval for making expenses including for travelling or any other expenses outside the territorial boundaries of the region concerned is obtained from the Council in writing:

Provided further that no fund of Regional Councils shall be applied directly or indirectly, for payment of any kind in relation to any foreign travel of program held in foreign country.”

My learned complainant has forgot to understand the difference between the chapter and Regional Council. The complaint pertains to the matter at chapter level.

The complainant is trying to extend the boundary of the Regulations by his imaginations to level allegations with malafide intentions to tarnish my image and to serve his vested interests.

5. Applicability of Bye Laws 25(2) framed by the Council Under Regulation 146

The Bye Law 25(2) reads:

“The Managing Committee shall be responsible for the funds of the chapter. The surplus funds of the chapter shall be invested in securities prescribed the Council only. Any withdrawal from the fixed deposit or long-term investment by the



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[Signature]



DISCIPLINARY DIRECTORATE

Chapter lying the credit of chapter shall be place before the Finance Committee of the chapter with due justification for its approval.”

The complainant, once again, has quoted a wrong provision by referring to 25(2) of the Chapter bye laws. He has grossly failed to understand how to link any relevance of transaction referred in the complaint with me for a transaction which was carried out by the Baroda Chapter. Again, I am not a member of the chapter nor I have been nominated on the Managing Committee of Baroda Chapter to oversee its functioning by the Institute in pursuance of Bye-law 11(f) of the Cost Accountant’s Chapter Bye-laws framed by the Council under Regulation 146 of the Cost and Works Regulations 1959 as amended.

Thus, I don’t have any role with the functioning of Baroda Chapter.

6. Regarding Inquiry to be Conducted for All Chapters in the Country about the payments made to MicrovistaTechnologies Pvt. Ltd. from 2015-22

This is not a complaint.

The complaint is cleverly trying to expand the scope of his complaint without providing any evidence and is advising Disciplinary Directorate to conduct inquiry and thereby wasting time and energy of the Disciplinary Directorate and with an intension to continue harassing me.

7. Regarding violation of First Schedule Part- I Clause 10

The clause 10 of Part I of First Schedule reads:

“A cost Accountant in practice shall be deemed to be guilty of Professional Misconduct, if he –

(10) engages in any business or occupation other than the profession of Cost Accountants unless permitted by the council so to engage.

Provided that nothing contained herein shall disentitle a cost accountant from being a director of a company (not being Managing Director or a Whole-time Director) unless he or his partners is interested in such company as accountant”.

I am not a Managing Director or a whole-time director of Microvista Technologies Pvt. Ltd. as per the proof provided by the complainant himself in form of MGT- 7 of the company. Further, none of my partners are engaged as an accountant of the said company.”

In addition to this I would like to add few points based on the attachments provided by Mr. Kaka, the complainant:

- i. Kindly note that Baroda Chapter had followed a limited tender inquiry process and had received 5 responses and work was carried out by Micro Vista Technologies Pvt. Ltd. –





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L1 Bidder by following all concerned guidelines of the Institute. Here, the complainant has avoided to refer or attach the reply of said RTI to mislead the Disciplinary Directorate.

- ii. The complainant has attached a copy of letter dated 24th May, 2021 of CMA Y S Thaker addressed to Chairman of Baroda Chapter of Cost Accountants raising certain queries on books of accounts of 2019-20 & 2020-21. He has stopped there and there to create doubts about the accounts.

At the same time, the complainant is not accepting that the said queries were responded at by the then Chairman at AGM dated 31st May, 2021 and based on that only accounts were unanimously adopted by the members of Baroda Chapter of Cost Accountants.

Please refer to the copy of response to RTI dated 27th December, 2021 as attached to the complaint. The letter dated 24th May 2021 has no significance or value as all the queries were duly responded to by the then Chairman at the AGM of Baroda Chapter on 31st May 2021. Further accounts were passed unanimously at the AGM by the members present.

- iii. The complainant has tried to mis-lead the Directorate by attaching a case- Complaint No. Com/21-CA(33)/2015 as if his complaint against me is similar to the case already decided by DC.

In the said case Respondent Shri Ashok Naval was one of the office bearers of the Nasik-Ojhar Chapter and a Proprietary firm of Shri Naval's wife- M/s. Infsoft Systems was paid more than Rs. 1 crore for training to the students and as per the evidences produced, on some of invoices raised by M/s. Infsoft System were signed by CMA Ashok Naval in addition to some other non-adherence of formalities.

Under this complaint, Microvista Technologies Pvt. Ltd. has designed and Developed three Software- website and mobile applications for Android & I platforms along with a specially designed application to push as many as 12 dynamic Pages which can be changed simultaneously in one go. All these applications are developed on a using secured program language ASP.NET having Rating of 3+ as per IARC- International Age Rating Coalition. This means that it is suitable for all age groups. Some violence in a comical or fantasy context is acceptable. Bad language is not permitted.'

Further, 285 persons, so far, have downloaded these applications and updating is being carried out periodically. This means that the softwares are in working conditions and are being used regularly and the users are deriving benefit from the same.

Sir, this complaint is made out by Mr. Kaka is to fabricate me and my son under the guise of incomplete quotations of various Sections of the ICWA Act, Regulations and Bye Laws and by attaching irrelevant voluminous documents. I am sure that, by now, you shall agree with me that CMA Kaka being a retired senior Executive, Cost Accountant, Law graduate and Doctorate (as per profile circulated by him during elections to Regional Council) he could not have made such baseless allegations against me in a vehement manner by making virulent complaint.



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[Handwritten signature]



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I therefore request you to quash the complaint at the earliest as the complaint lacks merit. I shall be glad to provide you any further information in this regard and eager to cross examine the complainant along with my legal representative, if deemed fit by you.

Your Sincerely,

CMA Ashwin G Dalwadi
M- 8996”

Unquote

5. The written statement dated 18th August 2022 of the respondent was duly forwarded to the complainant vide letter No. G/DD/Com-CA(111)/03/08/2022 dated 23rd August 2022 for his rejoinder in terms of sub-rule (4) of Rule 8 of the Rules . No rejoinder, however, has been received from the complainant.
6. The respondent, in the meantime, by a letter dated 10th January 2023, submitted a supplementary written statement, by way of addendum which is reproduced below:

“Sir,

Sub: Addendum to defence statement against Complaint No. : Com/21-CA (111)/2022 – CMA M B Kaka (M/13599) Vs. CMA AshwinDalwadi (M/8996)

Ref.: My Defence Statement dated 18.08.2022

After submission of my above referred defence statement, I would to place before you an addendum to that statement.

I am sure that the Disciplinary Directorate is aware about the fact that CMA M.B. Kaka (complainant), CMA RK Patel, CMA Bhavin Patel and CMA YS Thakar have made several RTI s and DCs with the Institute about so called malpractices of MC Members of Baroda Chapter of Cost Accountants, against me and my son, MalharDalwadi.

Such RTIs/DCs are also made by some non-members of the Institute viz. SanjogLohare of Nagpur and Mohan Lodhi of Madhya Pradesh. Such baseless complaints were made by Mr. Mohan Lodi to Chief Vigilance Commissioner of India, Finance Minister and ministry of Corporate Affairs – MCA. MCA being administrative ministry for our Institute, it had directed the Institute to investigate the matter. This complaint was against the Managing Committee Members, the then Auditor of the Chapter CMA Reema Mehta and myself.

The President of the Institute has referred this matter for investigation to Justice Ashoke Kr. Dasadhikari, Retd Justice of High Court at Calcutta. Accordingly, the inquiry was held and statements of all concerned were recorded. Based on that Justice Ashoke Kr. Dasadhikari, Retd. Had submitted his response on the subject matter wherein he has **clearly opined that he has not found any arbitrariness/malice or any essence of corruption in the matter.**



A.P.T.



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A copy of the said report, as received from president's office is attached herewith for your kind perusal.

It may be noted that the contents of this complaint made to you and CVC/MCA are similar only. **While offering response to the matter, learned retd. High Court Judge has referred Cost and Works Accountants Act, 1959, Regulations, Rules, Chapter Bye-Laws and CVC Guidelines and other laws & rules.** Thus, the ambit of this inquiry was higher than that of Board of Discipline and/or Disciplinary Committee.

I am sure that the independent inquiry conducted by Learned retd. High Court Judge has got very high testimony and Disciplinary Directorate will also appreciate the same. My plea is simple. If there was no wrong doing at Baroda Chapter than how I can be held responsible.

I earnestly request you to drop the complaint immediately.

Thanking you,

Sincerely,

CMA Ashwin G. Dalwadi''

7. Findings

On perusal of the complaint dated 27th July 2022 of the complainant, the written statement dated 18th August 2022 of the respondent as well as the supplementary written statement dated 10th January 2022 provided by way of an addendum to the Disciplinary Directorate, the following findings have been arrived at:

- The main crux of the matter alleged by the complainant is that Microvista Technologies (P) Ltd issued invoice dated 3rd November 2020 on Baroda Chapter of Cost Accountants asking for payment of Rs. 1,10,000/- plus GST for some work performed by them. Also the same invoice was paid to Micovista Technologies before 31st March 2021. Here, the respondent has no role to play as he is neither the member of Baroda Chapter of Cost Accountant nor did he sign on the work order for placing order to the said company.
- The fact that the respondent and his son were drawing 10% profits from Microvista Technologies (P) Ltd is only a statement and not an allegation. Any person who is a Director whether whole time or part time is entitled to receive part of profits if the contract so stipulates.
- The other allegation of violation of Regulation 132(2) of the CWA Regulations, 1959 also does not arise as this regulation speaks of "funds of Regional Council' and not of any Chapter. In any case, no part of the funds of the Chapter have been applied in this case for payment to the respondent.
- The respondent is neither a Managing Director nor a Whole Time Director of Microvista Technologies (P) Ltd and hence the provisions of Clause (10) of Part I of Schedule I is not attracted in this case.

APT
CJ





**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
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DISCIPLINARY DIRECTORATE

- e. In the annexure to the complaint, it is observed that the bulk of the allegations are levelled against one Shri Mihir Vyas, believed to be a member of Baroda Chapter of Cost Accountants. The respondent has nothing to do with the allegations levelled against said Shri Vyas.
- f. The question of the respondent being a related party also does not arise since the respondent has, in no way, been involved in any manner in the matter of placing work order of development of website to Microvista Technologies (P) Ltd.
- g. The complainant unfortunately has expired and the complaint needs to be quashed on this ground alone. Even otherwise, also, the case is without any merit.
8. As it appears from the foregoing it is clear that the complainant has not been able to make out a case in his favour. In the 47th meeting of the Board of Discipline held on 15th January 2024, the Board opined that as the complaint has no merit and no legs to stand on, the Board concluded that there is no misconduct by the respondent. The Board also noted that the complainant has expired. The Board advised Director (Discipline) to obtain a copy of the death certificate of the complainant and place the same at the next meeting of the Board.
9. In the 48th meeting of the Board held on 28th February 2024, Director (Discipline) informed the Board that Baroda Chapter of Cost Accountants had forwarded a certified copy of the abstract of minutes of the Managing Committee dated 19th July 2023 where the members of the Baroda Chapter have mourned the sad demise of CMA Mukesh Bapulal kaka. The Baroda Chapter of Cost Accountants vide email dated 1st August 2023 sent the following email on the complainant's demise to the membership department of the Institute and the Secretary of the Institute which is reproduced below:

“ CMA Mukesh B Kaka M-13599 - Obituary

Respected Sirs,

Due to clerical error mail send on 31/7/2023 chairperson period mention from 2013 to 2016 at ICAI –Baroda Chapter of Cost Accountants but read as from 2012 to 2015. We attached herewith Revised Resolution no 4(3)

Shri Mukesh Bapulal Kaka (Membership No. 13599), former chair of the chapter expired on 2nd July 2023 at the age of 65 years. He was a chairperson from 2012 to 2015 at ICAI - Baroda Chapter of Cost Accountants. He has played a vital role in the development of the Baroda Chapter.

Managing committee members mourn the sad demise of Shri Mukesh Kumar Bapulal Kaka and pray almighty that the soul may rest in peace and provide sufficient fortitude to his family members to withstand the loss on account of his loss.

Kindly put this on your Records please

Attached MCM resolution point copy of Baroda chapter MCM Meeting. This for your kind information and necessary action

Regards,



APC
CF



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DISCIPLINARY DIRECTORATE

CMA Priyank Vyas - Chairman

The Institute of Cost Accountants of India
(Statutory Body under an Act of Parliament)
Baroda Chapter
(Western India Regional Council)"

Order

10. In the light of the above, as the complaint lacked merit the proceedings against CMA Ashwin Dalwadi, respondent is dropped. As such there is no ground for the complaint to subsist.
11. Further, it is noted, based on documents and records, that the complainant has passed away. However, the death certificate of the complainant could not be procured despite best efforts as the same is not with the Institute.
12. From the foregoing, it is clearly established that the complainant has not been able to make out a case in his favour and accordingly, the matter may be closed 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.
13. The matter, thus stands disposed of.

May 01, 2024

CMA (Dr.) Ashish Thatte

A.P. Thatte


Shri P.K. Pujari, IAS (Retd.)
PRESIDING OFFICER

