



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

DISCIPLINARY DIRECTORATE

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**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(45)/2016 -

Central Bureau of Investigation [Complainant]

Vs.

Shri Ramesh Kumar Sharma (M/ 25898) [Respondent]

ORDER

Quorum

- | | |
|--|----------------------------------|
| 1. CMA Ashwin G Dalwadi, | - Presiding Officer |
| 2. CMA Manoj Kumar Anand | - Member |
| 3. CMA TCA Srinivasa Prasad | - Member |
| 4. Shri Saraswati Prasad, IAS (Retd.)
Member | - Nominee of Central Government, |
| 5. Smt. Meenakshi Sharma IA & AS (Retd.)
Member | - Nominee of Central Government, |

Facts:

1. The Anti-Corruption Bureau of the Central Bureau of Investigation (CBI) filed a complaint dated 25th October 2016 against Shri Ramesh Kumar Sharma, (hereinafter referred to as the 'respondent') bearing membership number 25898 alleging acts of professional misconduct against the respondent.
2. On receipt of the instant complaint, the same was registered by the Disciplinary Directorate after it was found to be in order and was proceeded with in the manner as prescribed under Chapter III of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. A unique complaint number Com/21-CA(45)/2016 was allotted to the complaint.
3. The complaint was accompanied by a covering letter dated 25th October 2016 signed by Shri S.K. Khare, HoB/SP, CBI,ACB, Ranchi and was made on the following grounds:

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- a) The Anti-Corruption Branch of the Central Bureau of Investigation, Ranchi registered a case vide no. RC 5(A)/2015–R which alleged that Shri Gopal Singh Jha, the then Branch Manager of Punjab National Bank, Mango Branch, Jamshedpur, during the period from April 2010 to Oct, 2010 in connivance with the M/s Gauri Gautam Construction Pvt. Ltd., Jamshedpur and its three Directors, viz Shri Rohit Kumar Singh, Arun Kumar Singh, Smt. Gauri Devi, M/s JMD Construction, Jamshedpur, M/s Sri Shanti Construction, Jamshedpur, Shri Sujit Kumar Bhadani and Shri Vivek Pandey, both Partners of M/s Sri Shanti Construction, Jamshedpur, cheated the Bank to the tune of Rs. 3,41,81,098 dishonestly by inducing the bank to deliver the proceeds of 31 housing loans, which had been sanctioned by Shri Gopal Singh Jha, the then branch Manager, dishonestly and by abusing his official position without recommendation of any bank officer of branch and without registration of the sale deeds and in respect to flats which belonged to some other persons.
- b) Investigation revealed that Gopal Singh Jha was posted and functioning as Branch Manager of PNB Mango Branch (MMG-II) during the period from March 2008 to April 2011. While being posted and functioning as Branch Manager Gopal Singh Jha sanctioned and disbursed 31 housing loans to different parties through the builder viz. Rohit Kumar Singh, Arun Kumar Singh, Aakash Agarwal, Gauri Devi of M/s Gauri Gautam Construction Pvt. Ltd. Ram Janam Sharma of M/s JMD Construction, Rahul Kumar Shankarka, Sujit Kumar Bhadani & Vivek Pandey of Shri Shanti Construction. It has been revealed that the loans were sanctioned on the basis of forged documents i.e. Income Tax Returns and Building Permits without ascertaining the genuineness of the borrowers.
- c) Investigation revealed that the respondent, S/o Late P N Sharma, practising as Cost Accountant, from his office at Tiwari Bechar Complex, second floor, Bishtupur, Jamshedpur prepared the fake Income Tax Returns. He passed as Cost Accountant from the Institute of Cost Accountants of India, 12, Sudder Street, Kolkata in 1998. He computed the fake IT returns of the loanees in his office computer as and when approached by the builders against the names provided by them. During investigation he accepted having prepared the IT returns of the loanees in their absence on the basis of the names and other details provided by the builders. These fake IT returns were subsequently submitted by the builders along with the loan application files of the loanees to make them eligible for the loan.
- d) The Bank officials who were in league with these builders sanctioned the loan amounts without visiting the site or meeting the loanees and payment to the tunes of Rs 3,05,80,000/- was made in favour of the builder M/s Gauri Gautam Construction Pvt Ltd. The payment to the tunes of Rs 21, 00,000/- was made in favour of M/s JMD Construction Pvt Ltd. The loanees were examined during the course of investigation and all of them expressed their ignorance about the sanction of house building loan in their names. The innocent people were cheated by the builders who used their names and documents and got the loan sanctioned which was not in the knowledge of the loanees. The loans were not sanctioned for its actual purpose i.e. to finance a genuine customer in purchasing a house rather

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it was one means of fraudulently financing a builder through Government money under the garb of house building loan by using the names and documents of the loanees without their knowledge. It has been revealed that out of the total loan sanctioned amount of Rs 1, 75, 31,274/- is still outstanding which is a clear cut loss to the Government Exchequer.

- e) During the course of investigation searches were conducted at the premises of the builders and the office premises of the complainant situated at Tiwari Bechar Complex, Bishtupur, Jamshedpur on 22nd June 2016 during which the hard disc of the Computer in which fake IT returns were prepared was seized by the CBI. After conclusion of the investigation the charge sheet was filed in the court of Special Judge, Ranchi, against eleven persons including the Bank officials and the builders.
 - f) The concluding part of the complainant stated that the facts and circumstances mentioned above is a clear professional misconduct on the part of the respondent. Due to the acts of omission and commission on the part of the respondent, the competent authority has recommended to take 'Such Action' against him.
4. Immediately on receipt of the complaint, an acknowledgement by way of a letter No. G/DD/CBI/Com-CA(45)/02/10/2016 dated 28th October 2016 was sent to the CBI i.e., the complainant. The respondent was intimated vide letter dated 31st October 2016 to send his response to the complaint through a written statement in his defence within 21 days from the date of service of the letter.
 5. The respondent submitted his two-page response in his defence through written statement dated 18th November, 2016 mentioning that:
 - i. That a mere perusal of C.B.I Anti-Corruption Branch Ranchi's letters No 4856 dated 25.10.2016 does not reveal any specific allegation against him. The specific allegation against whom the C.B.I seems to have launched the proceedings for offence i.e. dishonest intention, abuse of official position etc. have already mentioned in the opening paragraphs of the self-contained Note in R.C.5(A)/2015-R of CBI ACB Ranchi.
 - ii. That the sweeping allegation with regards to preparing the income tax return is fictitious, misconceived, imaginary, concocted and one sided. The respondent did not prepare and authenticate the Income Tax return of any loanees relating to the case. The respondent did not commit any act which constitutes the ingredients of misconduct or forgery etc.
 - iii. That a sweeping allegation of professional misconduct levelled by any investigating agency without any corroboration or any substantive evidence is nothing but just imaginary.





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- iv. That self-contained note of C.B.I ACB Ranchi is mere a statement of facts and it seems that cognizance of offence has not yet been taken by honourable court.

In view to the above facts mentioned above he requested to ignore the CBI's self-contained note at this case and for this he shall be ever remain grateful to the Disciplinary Directorate.

6. The written statement of the respondent was sent to the complainant vide letter dated 29th November, 2016 for sending rejoinder on the same. In the rejoinder dated 5th January, 2017 the Complainant, had submitted that the instant case pertains to Sanction and Disbursement of 31 Housing loans to different parties through the builders' viz. Rohit Kumar Singh, Arun Kumar Singh, Aakash Agarwal, Gauri Devi of M/s Gauri Gautam Construction Pvt. Ltd, Ram Janam Sharma of M/s JMD Construction & others on the basis of fake documents without knowledge of the loanees. It has been revealed that the loans were sanctioned on the basis of fake Income Tax Returns and Building Permits without ascertaining the genuineness of the borrowers. During the course of investigation the accused builders admitted having got prepared the fake IT Returns by the respondent, who also admitted this fact. During the course of search at the office Premises of the respondent, the hard disc through which the fake IT returns were prepared was seized.

The Charge sheet could not be filed against the respondent given that it was based upon the oral admission of the co-accused persons. However there is sufficient evidence for the alleged act of Misconduct on the Part of the respondent for initiating Such Action.

7. Investigation & Analysis

As part of the investigation, the following information was sought from the respondent, vide letter No. G/DD/ (M-25898)/CA(45)/02/02/2017 dated 20th February, 2017

- i. To disclose the name and addresses of the Builders i.e., M/s Gauri Gautam construction Pvt. Ltd, Rohit Kumar Singh, Arun Kumar Singh, Aakash Agarwal and M/s JMD Constructions.
- ii. To mention the areas of work that he undertakes in the capacity of a Cost Accountant in practice.
- iii. To provide a list of his clients during the FY 2009-10, 2010-11, 2011-12, 2012-13, 2014-15 & 2015-16.
- iv. Whether FIR has been registered against his name by any law enforcing authority.
- v. Whether he has been, at any time, taken in police Custody? If yes, the details thereof.

In response to the above mentioned letter, the respondent, enclosing therewith, a copy of Charge Sheet Filed by the CBI in Case No RC-05(A)/2015-R dated 11/06/2015 stated that in the charge sheet his name was not there. This means the allegation of professional misconduct levelled by investigating agency is not true. They had made sweeping allegations of professional misconduct without any

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corroboration or any substantive evidence. Further, he prayed for closure of the case, and for which he said he shall remain ever grateful.

8. Again, the following information was sought from Central Bureau of Investigation vide letter No. G/DD/ CBI/Com-CA (45)/04/02/2017 dated 20th February, 2017:
- To disclose the addresses of the Builders i.e., M/s Gauri Gautam construction Pvt. Ltd, Rohit Kumar Singh, Arun Kumar Singh, Aakash Agarwal and M/s JMD Constructions.
 - The role of the Bank Manager, Punjab National Bank, Mango Branch, during the period April 2012 to October 2010.
 - Whether FIR has been registered against the respondent by any law enforcing authority. If yes, copy and other details thereof.
 - Whether the respondent has been, at any time, taken in Police Custody? If yes, the details thereof.

In response to the letter dated 20th February, 2017, the complainant submitted as follows which is reproduced in verbatim:

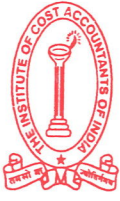
Quote

- The addresses are as follows:-

M/s Gauri Gautam Construction Pvt Ltd. 5, Govind Nagar, Opposite - 9 KD Flats, Kadama, Jamshedpur-831005
Rohit Kumar Singh r/o Gauri Gautam Apartment, 5 Govind Nagar, Opposite 9 KD Flats, Kadama, Jamshedpur permanent resident of Village: Mainpur, Distt. : Gazipur, U.P.
Arun kumar Singh S/o Dr SK Singh Village: Kabirpur, PO Kabirpur, Mairwa. in Siwan Distt , Bihar
Aakash Agarwal S/o Gopal Agarwal Corner Duplex 1st Flat (ground and 1st Floor) situated in M.P City Apartments, Aadityapur, Jamshedpur
M/s JMD constructions, Tiwari Bechar complex, Bishtupur, Jamshedpur.
- The role of the Bank Manager, Punjab National Bank, Mango Branch has been mentioned in the Self Contained Note.
- The CBI has not registered FIR against Sh Ramesh Kumar Sharma. However as there are several other cases against the alleged builders at Jamshedpur registered by Jharkhand Police, the details can be obtained from O/o SP, Jamshedpur
- The CBI has not taken any accused in Police Custody in the instant case. However the details of other cases of Jharkhand Police can be obtained from O/o SP, Jamshedpur"

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It was recommended to take appropriate action as deemed fit against the respondent "for creation of fake documents/ITR on his part."

9. Further the following information was sought from Central Bureau of Investigation vide letter No. G/DD/CBI/Com-CA (45)/05/03/2017 dated 13th March, 2017:
- I. Whether charge sheet was issued against the respondent. If yes, copy and other details thereof. If no, the reasons for not issuing charge sheet to the respondent.
 - II. Documentary or other material evidence signifying that fake IT Returns was prepared by the respondent which enabled the loanees to get bank loans from Punjab National Bank, Mango Branch.

In response, Central Bureau of Investigation provided the following information which is reproduced in verbatim:

"In this regard a letter no 74 dated 5-1-2017 has already been sent to your office which mentions that the charge sheet could not be filed against Sh Ramesh Kumar Sharma given that it was based upon the oral admission of the co- accused persons. However, there is sufficient evidence for the alleged act of Misconduct on the part of Ramesh Kumar Sharma for initiating Such Action. As regards the documentary evidence signifying the fake IT returns is concerned the Photo copies of the letters received from the income Tax Department and the photo copies of loan applications can be collected from this office by deputing one of your officials with authority letter."

10. The Disciplinary Directorate, vide letter No. G/DD/CBI/Com-CA(45)/06/001/2018 dated 17th January 2018 sought the following information from CBI:
- i. Investigation Report in which it has been revealed that fake Income Tax Returns were created in the office of the respondent.
 - ii. Investigation Report/documentary evidence signifying that the respondent had accepted that the fake Income Tax Returns were prepared in his office.
 - iii. Search Report/documentary evidence or other material evidence signifying the fact that the hard disc through which the fake IT Returns were prepared was seized from the office of the respondent.

The CBI, vide their letter No. 1378/31RC5(A)/2015-R dated 26th February 2018 submitted as follows which is reproduced in verbatim:

Quote

As regards the Investigation Report the letter no 4856 dated 25-10-2016 was already sent to The President, Institute of Cost Accountants of India, 12, Sudder Street, Kolkata – 700016 enclosing the Self Contained Note with respect to the outcome of the investigation in RC 5(A)/2015 – R revealing the "Misconduct" on the part of Ramesh Kumar Sharma, Cost Accountant. A Copy of the Self Contained Note is again enclosed for your ready reference.





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As regards the documentary evidence signifying the fake IT returns it is stated that the letter vide no. 2273/3/RC 5(A)- 2015-R dated 3-5-2017 was sent to our office stating therein that the photocopy of documentary evidence etc. can be collected from this office by deputing one of our official with authority letter.”

11. In the 39th meeting of the Disciplinary Committee held at New Delhi on 14th May 2018, the prima facie opinion formed by Director (Discipline) together with the documents relied upon 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 and the prima facie opinion was accepted and agreed to by the Disciplinary Committee in terms of Rule 9(2)(b) of the said Rules holding the respondent guilty of violation of the following provisions of the Cost and Works Accountants Act, 1959:
- Clause (7) of Part I of Second schedule to the CWA, Act, 1959
 - Clause (1) of Part II of Second schedule to the CWA, Act, 1959

The Secretary of the Committee was directed to ensure compliance of Rule 18(2)/18(3) of Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

12. The respondent submitted his second written statement dated 20th June 2018 pursuant to Rule 18(3) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 denying once again the allegations which were levelled by the Complainant in his complaint and in the subsequent rejoinder. In the 44th Meeting of the Disciplinary Committee held at Mumbai on 5th October 2018, the Committee noted the status and decided to proceed further as per Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
13. In the 45th Meeting of the Disciplinary Committee held at kolkata on 26th October 2018, the Committee perused the matter and decided to call both the parties in the next meeting of Disciplinary Committee for making oral submissions, if any, in terms of Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. Accordingly, by letters dated 19th March, 2019 both the parties were called upon to appear before the Disciplinary Committee on 1st April 2019 at the EIRC of The Institute of Cost Accountants of India, Kolkata for making oral submission, if any, in terms of Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and other misconduct and conduct of cases) Rules, 2007.

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14. The respondent appeared for making oral submissions and the Committee read out the charges as required under Rule 18(7) of the Rules to the respondent along with the summary of *prima facie* opinion arrived at by the Director, and asked the respondent whether he pleads guilty to the charges made against him. The respondent did not plead guilty, The complainant, however, did not attend the oral submission. The Committee noted that the complainant has failed to attend the meeting. The Committee decided to call the complainant in the next meeting of the Committee to for making oral submission, if any, in terms of Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and other misconduct and conduct of cases) Rules, 2007. Accordingly, letter dated 10th July 2019 was sent to the office of the Central Bureau of investigation, calling upon the complainant to appear before the Disciplinary Committee on 19th July 2019 at Kolkata for making oral submission, if any, in terms of Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and other misconduct and conduct of cases) Rules, 2007. The complainant, however, failed to attend the said hearing on this occasion too.
15. In the 47th meeting of the Committee held at Kolkata on 19th July 2019 the Committee decided to call the parties for examination of witnesses and production of witnesses in support of his contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. In compliance with such decision to call the respondent, an email dated 3rd February 2021 was sent to the respondent requiring his presence before the Disciplinary committee on 10th& 11th February 2021 at Chennai for examination of witnesses and production of witnesses in support of his contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
16. The respondent appeared through virtual mode before the Disciplinary committee on 11th February 2021 in compliance of Rule 18(9) of the Rules. He did not bring any witness nor did he produce any document but answered almost all the questions posed to him by the Disciplinary Committee. The Committee directed Director (Discipline) to write to him to make written submissions by way of an affidavit. Accordingly, a letter Ref No. G/DD/(M-25898)/CA(45)/10/02/2021 dated 26th February 2021 was sent to the respondent requesting him to make his written submissions by way of an affidavit with 07 (seven) days of service of the letter. An email this effect was also sent to him on the same day.
17. The respondent, in the meantime, vide letter dated 17th February 2021 stated *inter alia* as follows:
- a. That no charge sheet has been filed against him in any Court of the country pertaining to this case.

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- b. That no FIR has been lodged against him in any Police Station pertaining to this case.
- c. That he out rightly rejects the charges made by CBI in its self-contained note wherein it was mentioned that he had accepted that he had prepared the IT Returns of loanees in their absence on the basis of name and other details provided by the builders, as this whole premise of CBI complaint against him was based on false/unfounded and frivolous ground without any corroborative and substantive evidence.
- d. That no Court has taken cognizance of offence committed by him pertaining to this case yet.
- e. That the CBI in its course of investigation completely failed to produce any evidence from seizure of Computer Hard Disc from his office at Tiwari Bechar Complex, Bistupur, Jamshedpur as mentioned in para 2 of page 2 wherein it has stated that "After conclusion of the investigation the charge sheet was filed in the court of Special Judge, Ranchi, against eleven persons including the bank officials and the builders" but not against me which reflects the fact that CBI has no such evidence against him.
- f. That in para 7 of page 3 it was stated that "The Charge Sheet could not be filed against Shri Ramesh Kumar Sharma given that it was based upon the oral admission of the co-accused persons", which again reflects the fact that the whole case against him is based upon hearsay, false/unfounded and frivolous ground without any corroborative and substantive evidence.
- g. That as per the self-contained note of CBI, the CBI has completely failed to establish any omission and commission on my part in this case, thereby clause 7 of part 1 of Second Schedule to the CWA, Act 1959 is not bearing upon me.
- h. That as per the self-contained note of CBI, the same has completely failed to establish any professional misconduct, negligence and irregularities on my part, thereby clause 1 of part II of Second Schedule to the CWA, Act 1959 is not bearing upon me.
- i. That as merely hearsay, "Gut feelings" and "Hunches" should never override objective evidence.

The respondent had also submitted an affidavit dated 9th March 2021 duly notarized by the Notary Public, Jamshedpur confirming that the above mentioned facts from serial





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number (a) to (i) are true and correct. He made a request that based on the above submissions from his side, he hereby undertakes that the allegations made against him have no bearing with me carrying on the profession as a Cost Accountant and therefore the Institute and its Disciplinary Committee should not entertain a complaint in this regard.

18. The complainant in the instant complaint is the Central Bureau of investigation which was also called vide letter Ref No. G/DD/CBI/Com-CA(45)/13/02/2021 dated 5th February 2021, for examination of witnesses and production of witnesses in support of his contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. No official of the CBI appeared on the said date. Shri Binay Kumar, Superintendent of Police and Head of Branch, CBI, ACB, Ranchi vide his letter No. 396 /05(A)/2015-R dated 9th February 2021 stated that there is restriction on appointment of Presenting Officer from CBI and no such proposal was sent to the Institute by CBI. In this regard, the laid down norm is that in case the Department (ICAI) is of a view that Presenting Officer from CBI is a must, then it may write to the CVC, by furnishing the reasons thereof and the CVC in turn, will advise CBI for necessary action. The CBI has requested that the Department i.e., the Institute of Cost Accountants of India may appoint its own Presenting Officer in the matter of the subject complaint against the respondent or seek advice of the CVC.
19. In the 50th meeting of the Disciplinary Committee held at Chennai on 12th March 2021, the Committee observed from the response of the respondent that no charge sheet has been filed against him in any Court of the country pertaining to this case. Also, no FIR has been lodged against him in any Police Station pertaining to this case and he had rejected the charges made by CBI in its self-contained note wherein it was mentioned that he had accepted that he had prepared the IT Returns of loanees in their absence on the basis of name and other details provided by the builders, as according to the respondent, this whole premise of CBI complaint against him was based on false/unfounded and frivolous ground without any corroborative and substantive evidence. *The Committee felt that the views of CBI is required to arrive at a finding in the matter as the respondent had denied all the allegations levelled against him.* Accordingly, a letter dated 17th March 2021 was written to the CVC for deputing a Presenting Officer in the case. No reply was received from CVC
20. In the 51st meeting of the Committee, the learned members directed the Director (Discipline) to write to CVC again stating that in the absence of any Presenting Officer from CVC, the matter will be heard and proceeded with based on documents and records available with the Disciplinary Directorate. Accordingly, by a letter Ref No. G/DD/CVC/Com-CA(45)/2/06/2021 dated 30th June 2021, it was stated that in the absence of any Presenting Officer being deputed by the CVC, the Disciplinary Committee will proceed based on available records and documents in accordance with the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 and the Cost and Works Accountants Act, 1959.





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21. In the 53rd meeting of the Disciplinary committee, Director (Discipline) apprised the Committee that in compliance with the directives of the Disciplinary Committee letters dated 22nd March 2021 and 30th June 2021 were sent to the CVC with a copy marked to the CBI, Ranchi stating that in the absence of any Presenting Officer from CVC, the matter will be heard and proceeded with based on documents and records available with the Disciplinary Directorate. The Committee decided to wait for the response of the CVC before proceeding further in this matter. The Committee directed Director (Discipline) to write for one final time to CBI Ranchi requesting to depute a Presenting Officer from CVC. In accordance with such directives of the Disciplinary Committee, another letter dated 13th September 2021 has been addressed to the CBI, Ranchi for deputing a Presenting Officer in this case.
22. *The Superintendent of Police, CBI, Ranchi has acknowledged the letters written to them by Director (Discipline) and responded by an email dated 5th October 2021 at or about 10.57 A.M. stating that Shri Sridhar Malik, Addl. Superintendent of Police has been nominated as Presenting Officer in the said matter. The Committee, in its meeting held on 8th October 2021 had directed Director (Discipline) to collect evidence, if any, from Shri Sridhar Malik in this matter. Accordingly, a letter Ref. No. G/DD/CBI/Com-CA(45)//04/10/2021 dated 27th October 2021 a letter was addressed to the Superintendent of Police requesting him to enlighten the Disciplinary Directorate as to the following:*
- Whether any FIR has been lodged against Shri Ramesh Kumar Sharma, respondent in the instant complaint, in any Police Station pertaining to this case.
 - If yes, whether any charge sheet has been filed against him in any Court of the country pertaining to this case together with details thereof.
 - The present status of the case
 - Details of all evidence against the respondent

The Superintendent of Police / HOB CBI ACB Ranchi, vide letter No. 3174/3/5(A)/2015-R dated 14th November 2021 (received by the Disciplinary Directorate on 20th December 2021) submitted the following reply in relation to the above queries sought from him which is reproduced below in verbatim

"To

Sh. Rajendra Bose

Director (Discipline)

The Institute of Cost Accountants of India

CMA Bhawan, 12, Sudder Street

Kolkata- 700016

11





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Sub:- Complaint No. Com 21/CA(45)/2016-CBI (Complainant) Vs Shri Ramesh
Kumar Sharma (M/25898) (Respondent)

Sir,

Kindly refer to your letter no. G/DD/CBI/Com-CA(45)/04/10/2021 dated 27.10.2021 on the subject mentioned above.

The desired information about Shri Ramesh Kumar Sharma is as under:-

- i. This branch has not registered any FIR against Sh. Ramesh Kumar Sharma at CBI, ACB, Ranchi. The branch is not in a position to give details of FIRs lodged in any Police Station pertaining to this case.
- ii. No chargesheet has been filed against Sh. Ramesh Kumar Sharma by this branch at Ranchi. The SCN against Sh Sharma was sent to the Institute of Cost Accountants of India (copy of the same is enclosed herewith for ready reference).
- iii. As no chargesheet has been filed, hence, no present status is required.
- iv. An SCN had already been sent to the Institute of Cost Accountants of India, incorporating details of the outcome against Sh. Ramesh Kumar Sharma, which was revealed during investigation of this case. The details of his omission and commission have been mentioned in the said SCN.

This is for your kind information.

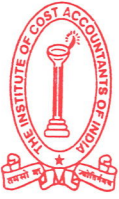
Yours sincerely,

Supdt. Of Police/HoB

CBI ACB Ranchi"

23. In the 59th meeting of the Disciplinary Committee held on 8th February 2022, the Committee advised Director (Discipline) that the complainant be called for examination of witnesses and production of witnesses in support of his contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 and the respondent may be called under Rule 18(13) of the said Rules to enter upon his evidence and produce his evidence. In compliance with such directive of the Disciplinary Committee, the complainant was called by letter dated 11th March 2022 to attend before the Disciplinary committee on Wednesday, the 23rd March 2022 at Delhi office of the





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Institute for examination of witnesses and production of witnesses in support of your contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The respondent was also called by letter dated 11th March 2022 to appear before the Disciplinary Committee on 23rd March 2022 at the Delhi office of the Institute to enter upon defence and produce evidence in terms of Rule 18(13) of the Rules.

24. In accordance with such directives, both the complainant i.e., representative from the CBI and the respondent (through an authorized representative) appeared before the Disciplinary Committee on the scheduled date and time. Prior to that, Director (Discipline) presented the following evidence before the Disciplinary Committee against the respondent in terms of Rule 18(11) of the Rules:

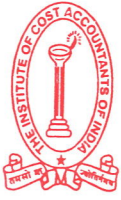
- i. The respondent computed fake IT Returns of the loanees in his office computer when approached by the builders.
- ii. During investigation the respondent had accepted the fact of having prepared the IT Returns of the loanees in their absence on the basis of names provided by the builders.
- iii. These fake IT Returns were subsequently submitted by the builders to the bank along with loan application of the loanees and on the strength of the fake IT Returns housing loans were obtained.
- iv. Loan of Rs 3,05,80,000/- was made to Gauri Gautam Construction (P) Ltd and Rs 21,00,000/- to JMD Construction (P) Ltd on the basis of fake IT Return.
- v. Charge sheet was filed in the Court of Special Judge, Ranchi against 11 persons including the Bank officials of Punjab National Bank (MMG-II) Mango Branch, Jamshedpur and the builders.

25. Shri Sridhar Malik, Additional Superintendent of Police, CBI appeared for the complainant on the appointed date and time through the online mode and stated that:-

- i. That his branch has not registered any FIR against the respondent at CBI, ACB, Ranchi.
- ii. That no charge sheet has been filed against the respondent by this branch at Ranchi.
- i. However, it is a fact that the respondent in connivance with the builders have prepared fake IT Returns in his office and these fake IT Returns were fraudulently used to make the loanees eligible for sanction of the Housing Loans.
- ii. That searches were conducted at the premises of the builders and the office premises of the respondent situated at Tiwari Becher Complex, Bishtupur, Jamshedpur on 22nd June 2016 during which the hard disc of the Computer in which fake IT returns were prepared was seized by the CBI.

Shri Sridhar Malik, Additional Superintendent of Police, CBI stated that he would come prepared with all the evidence next time, if he is given an opportunity to appear before the Disciplinary Committee.





DISCIPLINARY DIRECTORATE

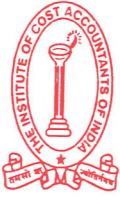
26. Adv. Nikhilesh Tripathi, Authorized representative, appeared through the online mode on behalf of the respondent, in terms of Rule 18(13) of the Rules on the scheduled date and time and made the following submissions:

- i. That no charge sheet has been filed against the respondent in any Court of the country pertaining to this case.
- ii. That no FIR has been lodged against the respondent in any Police Station pertaining to this case.
- iii. That the respondent rejects the charges made by CBI in its self-contained note wherein it was mentioned that he had accepted that he had prepared the IT Returns of loanees in their absence on the basis of name and other details provided by the builders, as this whole premise of CBI complaint against him was based on false/unfounded and frivolous ground without any corroborative and substantive evidence.
- iv. That no Court has taken cognizance of offence committed by him pertaining to this case yet.
- v. That the CBI in its course of investigation had completely failed to produce any evidence from seizer of computer hard disc from his office at Tiwari Bechar Complex, Bistupur, Jamshedpur.
- vi. That the respondent was falsely implicated by one Shri Rohit Kumar Singh, Director of Gauri Gautam Construction Pvt Ltd and a co-accused who had stated that respondent had prepared fake IT Returns of loanees in his office.
- vii. The respondent also stated that he was not in touch with the said Shri Rohit Kumar Singh after FY 2010-11 whose IT Return the former used to prepare.
- viii. That as per the self-contained note of CBI, it had failed to establish any omission and commission on the part of the respondent in this case. The CBI had referred this case to the Disciplinary Committee on the basis of its self contained note dated 25th October 2016.

CA G.V. Krishna, learned member of the Disciplinary Committee (Term 2019-2023) queried to the respondent the reason for CBI to file a disciplinary complaint against the latter. To which he replied that Shri Rohit Kumar Singh, Director of Gauri Gautam Construction Pvt Ltd had taken his name during investigation conducted by CBI.

27. The Committee after hearing both the parties directed Director (Discipline) to give another opportunity to Shri Sridhar Malik, Additional Superintendent of Police, CBI at the next meeting of the Committee to produce evidence against the respondent. Accordingly, vide letter Ref. No. G/DD/CBI/Com-CA(45)/06/04/2022 dated 22nd April 2022, the complainant was intimated to attend the hearing for examination of witnesses and production of witnesses in support of his contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the Rules.
28. In the meantime, the respondent by letter dated 28th March 2022 made the following submissions which is reproduced in verbatim:





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"Sub: Complaint No. COM-21/CA(45)/2016-CBI [Complainant] -Vs.- Shri Ramesh Kumar Sharma (M/25898) [Respondent]

Dear Sir,

This is in reference to your above-mentioned letter and thereby my appearance before Disciplinary Committee constituted by The Institute of Cost Accountants of India, CMA Bhawan, Lodi Road, New Delhi on 23.03.22 at 3.15 PM as a witness regarding the abovementioned subject, I have to submit as follows:-

1. That no FIR has been lodged against Shri Ramesh Kumar Sharma (M/25898) in any police station or ACB of CBI pertaining to this case [For kind reference, Photo copy of Certified copy of FIR registered by ACB, CBI Ranchi with FIR No. RC05(A)/2015-R dated 11.06.2015 is annexed herewith as Annexure- 1]
2. That no charge sheet has been filed against Shri Ramesh Kumar Sharma (M/25898) in any court of the country pertaining to this case. (For kind reference, Photo copy of Certified copy of charge sheet filed by ACB, CBI Ranchi with Charge Sheet No. 11/2016 in case No. RC05(A) / 2015-R dated 30.09.2016 is annexed herewith as Annexure- 2)
3. That no court has taken any cognizance of the offense committed by Shri Ramesh Kumar Sharma (M/25898) pertaining to this case yet.
4. That I out rightly reject the charges made by CBI in its para 2 of Rejoinder dated 5th January, 2017 wherein it has mentioned that Shri Ramesh Kumar Sharma (M/25898) has accepted that he got prepared the IT returns of loanees in their absence on the basis of name and other details provided by the builders, as this whole premise of CBI complain against Shri Ramesh Kumar Sharma (M/25898) is based on hearsay/false/unfounded and frivolous ground without any corroborative and substantive evidence as CBI itself has accepted that "The Charge Sheet could not be filed against Shri Ramesh Kumar Sharma given that it was based upon the oral admission of the co-accused persons".
5. That the CBI in its course of investigation completely failed to produce any evidence from seizer of Computer Hard Disc from Shri Ramesh Kumar Sharma's office at Tiwari Bechar Complex, Bistupur, Jamshedpur as mentioned in para 2 of page 2 in the Enclosure of Prima Facie opinion of Letter dated G/DD/(M-25989)/CA(45)/03/05/2018 dated 30.05.2018 wherein it has stated that "After conclusion of the investigation the charge sheet was filed in the court of Special

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DISCIPLINARY DIRECTORATE

Judge, Ranchi, against eleven persons including the bank officials and the builders” but not against Shri Ramesh Kumar Sharma (M/25898) which reflects the fact that CBI has no such evidence whatsoever against him.

6. That it is pertinent to mention here that the co-accused persons have mentioned the name of Shri Ramesh Kumar Sharma in their oral admission to falsely implicate him i.e. Shri Ramesh Kumar Sharma in this case along with them to take the revenge as Shri Ramesh Kumar Sharma had registered an FIR bearing Sonari PS Case No. 92/14 dated 09.05.2014 U/sec. 406/420/34 of IPC corresponding to G.R. case No. 1507/2014 before Civil Court Jamshedpur because Shri Ramesh Kumar Sharma was cheated on by co-accused persons in the year 2010 in course of getting possession of a residential flat purchased through registered Sale Deed No. 4358 dated 21.06.2008. (Photo copy of FIR, Photo Copy of Sale Deed, and Certified copy of Judgement dated 01.06.2018 are annexed herewith as Annexure - 3, 4 & 5 respectively for kind reference).
7. That I am herewith enclosing the details of some criminal history of the accused persons which are available on the website of eCourts Services and it has also been evidenced from the reply of CBI against letter dated 20th February, 2017 Ref. No.: G/DD/CBI/Com-CA(45)/04/02/2017 that “The CBI has not registered FIR against Shri Ramesh Kumar Sharma. However as there are several other cases against the alleged builders at Jamshedpur registered by Jharkhand Police, the details can be obtained from O/o. SP, Jamshedpur”, please refer Para No. 1 of page no. 5 in the Enclosure of Prima Facie opinion of Letter dated G/DD/(M-25989)/CA(45)/03/05/2018 dated 30.05.2018 (A list of Criminal History of co-accused persons/builders are attached herewith as Annexure - 6 for kind reference).
8. That I am also herewith enclosing the details of payment receipts as a professional fee from co-accused persons against the professional works of Shri Ramesh Kumar Sharma as Cost Accountant for them in an individual capacity and their firms only. (Photo copy of Fee Receipts are annexed herewith as Annexure-7 for kind reference).
9. That as per the self-contained note of CBI, the same has completely failed to establish any omission and commission on the part of Shri Ramesh Kumar Sharma in this case, thereby clause 7 of part I of Second Schedule to the CWA, Act 1959 is not bearing upon him.
10. That as per the self-contained note of CBI, the same has completely failed to establish any professional misconduct, negligence, and irregularities on the part





DISCIPLINARY DIRECTORATE

of Shri Ramesh Kumar Sharma, thereby clause 1 of part II of Second Schedule to the CWA, Act 1959 is not bearing upon him.

11. That as merely hearsay, "Gut feelings" and "Hunches" should never override objective evidence.

Based on the above submission from my side, I hereby undertake that the allegations made against Shri Ramesh Kumar Sharma, have no bearing with him carrying on the profession as a Cost Accountant and therefore the ICWAI and its Disciplinary Committee should not entertain a complaint in this regard.

Thanking you,

Yours Faithfully,
NIKHILESH TRIPATHI
Membership No. 37896"

The same Adv. Nikhilesh Tripathi had appeared before the Disciplinary Committee on 23rd March 2022 on behalf of the respondent.

29. On perusal of the annexure submitted by the respondent with his letter dated 28th March 2022, the Committee was of the view that the contentions of the respondent appear to be true. However, since the Addl. Superintendent of Police of CBI had stated before the Disciplinary Committee on 23rd March 2022 that he will be producing evidence in the next hearing, the same has to be considered. In the meantime, the CBI vide its letter No.693/3/5(A)/2015-R dated 29th March 2022 submitted to the Disciplinary Directorate had intimated that Shri R.S. Solanki, Dy. Superintendent of Police has been nominated as a Presenting Officer in the said matter. The complainant was duly intimated vide letter/email dated 22nd April 2022 to make himself available for the purpose of submitting evidence at 12.30 PM on 3rd May 2022. Shri R.S. Solanki, Dy. Superintendent of Police, however, did not appear to provide additional evidence. The Committee directed Director (Discipline) to afford the complainant with one more opportunity to enable him provide additional evidence. In compliance with the directives of the Disciplinary Committee, another opportunity of providing additional evidence was given to the Presenting Officer, appearing on behalf of the complainant, vide letter/mail Ref. No.: G/DD/CBI/Com-CA(45)/07/05/2022 dated 13th May 2022 to make himself available on 22nd May 2022. Shri R.S. Solanki, however, did not appear. On being contacted over phone, he stated that being a weekly holiday he was not in office and therefore could not appear.
30. The Committee directed Director (Discipline) to afford the complainant with one more opportunity on a working day to enable him provide additional evidence. Accordingly,

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DISCIPLINARY DIRECTORATE

letter/email No. G/DD/CBI/Com-CA(45)/08/06/2022 dated 14th June 2022 was sent to the complainant requesting him to present evidence in terms of Rule 18(11) of the Rules on 22nd June 2022 at Delhi office of the Institute. Shri R.S. Solanki, Dy. Superintendent of Police of the CBI and the Presenting officer in the instant complaint appeared through the virtual mode at the appointed date and time to make his submissions. The Director (Discipline) drew the Presenting Officer's attention to the allegation levelled by CBI against the respondent that the latter computed fake IT returns of the loanees in his office computer as and when approached by the builders against the names provided by them and that during investigation the respondent had accepted having prepared the IT returns of the loanees in their absence on the basis of the names and other details provided by the builders. These fake IT returns were subsequently submitted by the builders along with the loan application files of the loanees to make them eligible for the loan. Shri Solanki, Presenting Officer was apprised of the fact that the respondent denied this allegation. He was also informed of the fact that Shri Sridhar Malik, Additional Superintendent of Police, CBI, i.e., the earlier Presenting Officer had in his submissions on 23rd March 2022 had stated that:-

- i. That his branch has not registered any FIR against the respondent at CBI, ACB, Ranchi.
- ii. That no charge sheet has been filed against the respondent by this branch at Ranchi.
- iii. That searches were conducted at the premises of the builders and the office premises of the respondent situated at Tiwari Becher Complex, Bishtupur, Jamshedpur on 22nd June 2016 during which the hard disc of the Computer in which fake IT returns were prepared was seized by the CBI.

Shri R.S. Solanki read out the names of those builders and persons against whom charge sheet had been filed by the Superintendent of Police /HOB CBI ACB Ranchi. The Committee noted that the name of the respondent did not appear in the list of names read out by him.

On a query raised by the learned members of the Committee regarding the reason for not filing charge sheet against the respondent despite the allegation that the hard disc of the Computer in which fake IT returns were prepared was seized by the CBI during the course of investigation when searches were conducted on 22nd June 2016 at the premises of the builders and at the office premises of the respondent, Shri Solanki stated that the hard disk of the computer has been sent to the Central Forensic Sciences Laboratory (CFSL) and he will be able to provide evidence only on receipt of such report from CFSL.

31. The Committee noted the above and discussed on the same. It was felt that there was no other option but to wait for the forensic report from CFSL. The Disciplinary Directorate vide letter No. G/DD/CBI/Com-CA(45)/09/07/2022 dated 13th July 2022 addressed to the Dy. Superintendent of Police, CBI requested the complainant to intimate the Disciplinary Directorate as and when the Forensic report is received from CFSL for onward submission to proceed with the complaint and to take the same to its logical conclusion. In the 64th meeting of the Disciplinary Committee, held on 4th August 2022, the Committee members advised Director (Discipline) to follow up with Shri R.S.





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Solanki, Dy. Superintendent of Police of the CBI regarding the receipt of report from the Central Forensic Sciences Laboratory (CFSL) in order to take the case to its logical conclusion. It was brought before the notice of the Disciplinary Committee that the Director (Discipline) has been continuously following up with the CBI official. The Disciplinary Directorate vide letter No. G/DD/CBI/Com-CA(45)/09/07/2022 dated 13th July 2022 addressed to the Dy. Superintendent of Police, CBI requested the complainant to intimate the Disciplinary Directorate as and when the Forensic report is received from CFSL for onward submission to proceed with the complaint and to take the same to its logical conclusion. Since, no reply was received another letter No. G/DD/CBI/Com-CA(45)/10/08/2022 dated 24th August 2022 was sent to Shri R.S. Solanki, Deputy Supdt of Police, Anti-Corruption Branch, Ranchi requesting him to please apprise the Disciplinary Directorate if the Forensic report has been received from CFSL.

32. In the 66th meeting of the Disciplinary Committee held on 27th September 2022, the Committee directed Director (Discipline) to communicate with Shri R.S. Solanki, Deputy Supdt of Police, Anti-Corruption Branch, Ranchi informing him that if no material evidence is received from the CBI, the matter will be disposed of on the basis of documents and records available with the Disciplinary Committee. In accordance with such directives of the Committee, letter No. G/DD/CBI/Com-CA(45)/11/10/2022 dated 6th October 2022 was addressed to Shri R.S. Solanki, Deputy Supdt of Police, Anti-Corruption Branch, Ranchi stating in no ambiguous terms that if no material evidence is received from the CBI, the matter will be disposed of on the basis of documents and records available with the Disciplinary Committee.
33. In the 67th meeting of the Disciplinary Committee held on 18th October 2022, the Committee after considering the complaint, the written statement of the respondent and various submissions, both verbal and written, made by the latter, arrived at a finding under sub-rule (17) of Rule 18 that there are circumstances suggesting that the respondent is guilty of 'professional' misconduct. The Committee directed Director (Discipline) to issue notice to the respondent under sub-rule (1) of Rule 19 of the Rules to afford him an opportunity of being heard in the next meeting of the Committee before passing any order under sub-section (3) of Section 21B of the Cost and Works Accountants Act, 1959. The Disciplinary Directorate, in the meantime, was in receipt of a letter No.390/3/5(A)/2015-R dated 2nd November 2022 (received by this Directorate on 7th November 2022) from the complainant in response to the last letter No. G/DD/CBI/Com-CA(45)/11/10/2022 dated 6th October 2022 of the Disciplinary Directorate intimating this Directorate that the report from CFSL in this case has been received.
34. The Disciplinary Directorate, vide letter No. G/DD/CBI/Com-CA(45)/13/01/2022 dated 11th January 2023, communicated with the CBI, seeking a copy of the Forensic report to enable the Disciplinary Directorate to place the same before the Hon'ble Disciplinary Committee to take the complaint to its logical conclusion. The CBI, vide its letter No. 129/3/5(A)/2015-R dated 19th January 2023 replied that "the required pen drive is being sent to the CFSL, Kolkata for providing the necessary inputs. As soon as it is received, it will be forwarded to you." In the 71st meeting of the Committee, Director (Discipline) informed the learned members of the Committee that the Disciplinary Directorate is yet to receive the report of Forensic report from CFSL. The Committee advised Director (Discipline) to request the Deputy Superintendent, CBI to be present before the Committee at its next meeting and apprise the Committee about the status of Forensic Report from CFSL.





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35. In the 72nd meeting of the Disciplinary Committee held on 6th May 2023, Director (Discipline) informed the learned members of the Committee that a physical copy of letter No G/DD/CBI/Com-CA(45)/14/05/2023 dated 1st May 2023 (followed by email on the same day) was sent to the office of the Deputy Superintendent of CBI requesting him to appear before the Disciplinary Committee on Saturday, the 6th May 2023 in order to apprise the learned members of the Committee on the status of the progress of receiving the Forensic Report. The Deputy Superintendent of CBI did not, however, appear on the scheduled date and time. The Committee directed Director (Discipline) to afford him one final opportunity to appear before the Committee for appraising the learned members the present status of the Forensic Report. In the 73rd meeting of the Committee held at Kolkata on 29th May 2023, Shri R.S. Solanki, Dy. Superintendent of Police, Anti Corruption Branch appeared through the online mode before the Committee and stated that the required pen drive has been received from the O/o Director, CFSL and the same will be hand delivered personally to Director (Discipline) soon. The Committee took note of the same.
36. The complainant, vide letter No. 1323/3/5(A)/2015-R dated 6th May 2023, enclosed a copy of Forensic Examination Report and handed over a pen drive in a sealed envelope. In the 74th meeting of the Committee held on 10th June 2023, Director (Discipline) informed the learned members of the Committee that the required pen drive has since been received from the O/o Director, CFSL and the same has already been hand delivered personally to Director (Discipline) by an authorized representative of the Dy. Superintendent of Police, Anti Corruption Branch. The pen drive was opened and the Committee directed Director (Discipline) to go through the pen drive and place the content thereof before the Committee at its next meeting.
37. In the 75th meeting of the Committee held on 29th June 2023 the Disciplinary Committee directed Director (Discipline) to communicate with the CBI to request them to provide a detailed interpretation of the Forensic Audit Report and the documents contained in the pen drive highlighting clearly the following factual information:
- Whether the Forensic Audit Report or the above referred pen drive contains any incriminating material that calls for taking disciplinary action by the Committee.
 - If so, please share such details.
 - Has CBI taken any action against the respondent on the basis of such Forensic Audit Report or the pen drive?
 - If so, details of such action taken.

In accordance with such directives of the Disciplinary Committee, a letter No. G/DD/CBI/Com-CA(45)/16/07/2023 dated 12th July 2023 has been addressed to the Deputy Superintendent of Police, CBI, Anti corruption Branch requesting them to provide a detailed interpretation of the Forensic Audit Report and the documents contained in the pen drive indicating whether the Forensic Audit Report or the pen drive contains any incriminating material that calls for taking disciplinary action by the Committee. Since no response from CBI has been forthcoming and as this information is extremely necessary to bring the case to its logical conclusion letter No. G/DD/CBI/Com-CA(45)/17/08/2023 dated 8th August 2023

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DISCIPLINARY DIRECTORATE

was sent to the CBI. Another reminder No. G/DD/CBI/Com-CA(45)/18/09/2023 dated 18th September 2023 was sent to the CBI seeking the above mentioned information. It is understood that all these letters have reached their good offices.

38. In the 77th meeting of the Committee held on 9th November 2023, the learned members of the Committee after perusing through the facts of the case decided to take up the complaint at its next meeting for further discussions. Another reminder, in the meantime was addressed vide letter No. G/DD/CBI/Com-CA(45)/19/11/2023 dated 16th November 2023 to the Dy. Superintendent of Police of CBI, with a request to provide a detailed interpretation of the Forensic Audit Report and the documents contained in the pen drive which had been handed over to the Director (Discipline) by the CBI. In the 78th meeting of the Committee held on 28th November 2023, the Presiding Officer of the Committee stated that he had minutely gone through the pen drive and a careful perusal of the same reveal that the pen drive contains two sub folders namely as Report and Report I. In folder Report, it contains, among other things, 177 forms of 6AS of different PAN holders, 8 different banks ITR Forms, ITR I to ITR VIII, 15 miscellaneous pdf files, 74 MDB files which is a part of some software, 55 other miscellaneous files 7 budget excel files and 19 other miscellaneous files which is nothing but a full copy of the drive. The Presiding Officer further commented that based on these files, it is not possible to take any cognizance.
39. The Committee noted that the CBI has not charge sheeted the respondent and has not been able to provide the Disciplinary Directorate with any cogent evidence against the respondent. The prime allegation against the respondent was that he had prepared fake IT Returns in his computer on the basis of which the builders had availed loan from the bank, but there is no evidence against him except the hard disk. The Committee also noted that the preponderance of probabilities which may point out to the fact that the respondent may have acted in a negligent manner and he should have exercised due care and caution while undertaking his professional work.

Findings

The Findings arrived by the Committee under Rule 18(17) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 against Shri Ramesh Kumar Sharma, Respondent, bearing membership number 25898, are stated herein below:

- (i) That since the CBI has not charge sheeted the respondent and has not been able to provide the Disciplinary Directorate with any cogent evidence against the respondent, the prime allegation against the respondent that he had prepared fake IT Returns in his computer on the basis of which the builders had availed loan from the bank, is subject to strict proof thereof. In fact, there is no evidence against the respondent except a copy of the hard disk. Upon questioning, the respondent admitted that his computer was made use of by other people in his office





DISCIPLINARY DIRECTORATE

- (ii) By the respondent's own admission, he was not aware of any other use of the IT Returns (except for filing of IT Returns with the IT Department) prepared by him. However, it is on record from letter No. 8660 dated 2nd May 2017 of the Chief Manager, Punjab National Bank, Circle Office, Bagroy Market Main Road, Ranchi these IT Returns were fraudulently used to make the loanees eligible for sanction of the Housing Loans.
- (iii) The fact that charge sheet has not been issued by CBI does not absolve the respondent from taking sufficient care and caution as by his own admission, his computer was used by other employees in his office. This speaks volumes for the casual and uncaring attitude of the respondent who happens to be a senior member of this Institute.
- (iv) The Committee noted that the preponderance of probabilities clearly point out to the fact that the respondent had acted in a negligent manner and he should have exercised due care and caution while undertaking his professional work.
- (v) The above facts clearly demonstrate the professional misconduct of Shri Ramesh Kumar Sharma, Respondent.

The respondent is thus, guilty of violation of the following provisions of the Cost and Works Accountants Act, 1959 and the rules made there under:

- Clause (7) of Part I of Second schedule to the CWA, Act, 1959
40. The Committee directed Director (Discipline) to send the Findings arrived at under Rule 18(17) of the Rules to the respondent. The Committee also directed Director (Discipline) to issue notice to the respondent under Rule 19(1) of the Rules for affording him an opportunity for hearing before passing any order under sub-section (3) of Section 21B of the CWA Act, 1959. In the 81st meeting of the Committee held on 24th January 2024, Director (Discipline) apprised the Committee that the findings arrived at by the Disciplinary Committee u/r 18(17) of the Rules had been duly sent to the respondent vide letter No. G/DD/(M-25898)/CA(45)/13/01/2024 dated 17.01.2024. The respondent was called, vide letter No. G/DD/(M-25898)/CA(45)/14/01/2024 dated 19.01.2024, under Rule 19(1) of the Rules for affording him an opportunity for hearing before passing any order under sub-section (3) of Section 21B of the CWA Act, 1959.
41. The respondent accompanied by Ld. Advocate Nikhilesh Tripathy, appeared on the scheduled date and time through the virtual mode and made the following submissions:
- That no FIR has been lodged against Shri Ramesh Kumar Sharma (M/25898), respondent in any police station or ACB of CBI pertaining to this case.
 - That no court has taken any cognizance of the offense committed by the respondent pertaining to this case yet.

AG





**THE INSTITUTE OF
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- iii. That no charge sheet has been filed against the respondent in any court of the country pertaining to this case.
- iv. There is no case filed or pending against the respondent in any Court in India.
- v. That the respondent rejects the charges made by CBI in its para 2 of Rejoinder dated 5th January, 2017 wherein it has mentioned that the respondent has accepted that he got prepared the IT returns of loanees in their absence on the basis of name and other details provided by the builders, as this whole premise of CBI complain against the respondent was based on hearsay/false/unfounded and frivolous ground without any corroborative and substantive evidence.
- vi. That CBI had filed this complaint against the respondent based upon the oral admission of the co-accused person, namely one Shri Rohit Kumar Singh, as the respondent had registered an FIR against Shri Rohit Kumar Singh on 9th May 2014 under Sections. 406/420/34 of the Indian Penal Code 1860, as the respondent was cheated by Shri Rohit Kumar Singh in the year 2010 in course of getting possession of a residential flat.

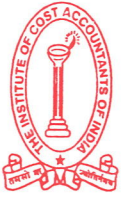
Finally, the Ld. Advocate prayed that in the light of the above submissions, the proceedings against the respondent be dropped and the complaint made by CBI be quashed.

Order

42. The Committee noted that the CBI has not filed any charge sheet against the respondent and has also not provided sufficient reliable evidence against him for the Disciplinary Committee to proceed against him under Section 21B(3) of the Cost and Works Accountants Act, 1959 read with the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
43. The Committee after carefully examining the facts and the circumstances of the case is of the considered opinion that there is no professional misconduct on the part of the respondent.
44. The instant complaint, therefore, lacks merit and the Committee unanimously agrees that the proceedings against the respondent be dropped and the matter is hereby

23





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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.

45. The matter accordingly, stands disposed of.

February 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 & AS (Retd.)

