



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

DISCIPLINARY DIRECTORATE

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

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(114)/2022 -

CMA Yashodhar Shashikant Thakar (M/9688), Complainant

Vs

M/s Ashish Bhavsar & Associates (FRN 000387), Respondent Firm

1.0 Facts of the case

1. The Disciplinary Directorate was in receipt of a compliant in Form I in triplicate dated 28th July 2022 from CMA Yashodhar Shashikant Thakar (hereinafter referred to as the 'complainant') bearing membership number 9688 against M/s Ashish Bhavsar & Associates (FRN 000387) (hereinafter referred to as the "respondent firm") containing certain allegations against CMA Ashish Bhavsar, as an individual (though the complaint has been made against the firm).
2. These allegations had been given in the form of an annexure which are reproduced below in verbatim:

Particulars of Allegation

Background:

Sir, Kindly note that on e-procurement system of Coal India Ltd. Subsidiary M/s. South Eastern Coalfields Ltd. (SECL) as a part of the transparency, all persons/firms who bid the tender are able to get the full information about all the bidders and can download the documents offered to SECL.

While going through the tender documents submitted by CMA Ashish Bhavsar (M-22646) who signed the tender on behalf of Ashish Bhavsar & Associates to SECL against tender Notice No. SECL/BSP/CMC/e-EoI/406 Dt. 27.06.2020 for EMPANELMENT AND SELECTION FOR





APPOINTMENT OF COST AUDITOR FOR AREAS OF SOUTH EASTERN COALFIELDS LIMITED (SECL) AND FOR CONSOLIDATION REPORT OF SECL FOR THE FINANCIAL YEARS 2020-21 AND 2021-22, I have come across violations about willful misrepresentations of facts in a fraudulent manner to deceive his clients through utter misstatement of facts committed by him which certainly deserved highest penal actions under the Act & Rules of the Institute.

CMA Ashish Bhavsar has submitted forged, fake documents with mala fide intention in the tender documents submitted to South Eastern Coalfields Ltd.

Mr. Ashish Bhavsar has intentionally submitted and shown CMA Bhavik Ganatra and kept a forged document of his employment under his firm.

Mr. Bhavik Ganatra (M-46973) is working as Accountant at SHAKTIMAN (Tirth Agro Technology Pvt. Ltd.) from June 2017 to Present date. (LinkedIn Profile is attached for ready reference).

Mr. Ashish Bhavsar has intentionally submitted and shown Mr. Bhavik Ganatra as his qualified cost accountants employed in his firm in the year 2020 and kept a forged appointment letter with mala fide intention to gain financial benefit in tendering process.

Thus, CMA ASHISH BHAVSAR has produced factually incorrect list of cost accountants servicing to his firm with mala fide Intention to deceit the M/s. SECL subsidiary of M/s. Coal India Ltd.

This clearly indicates that either CMA Bhavik Ganatra have connived with CMA Ashish Bhavsar or CMA Ashish Bhavsar has misrepresented the facts. This needs to be probed by the Discipline Directorate.

Further, it is pertinent note that as part of tender CMA Ashish Bhavsar has signed and given, on his letterhead, a letter of undertaking wherein he has confirmed that "all information/documents /credentials submitted along with the offer are genuine, authentic, true, valid and complete in every respect" which is factually incorrect and not true.

Copy of the said tender documents submitted to South Eastern Coalfields Ltd. is attached with complaint.





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These acts are of:

- a) *Sheer negligence by a professional Cost Accountants which invites disrepute the Institute under clause (2) of Part IV of first schedule of the act.*
- b) *Not Supplying the factual information to the institute and to defraud clients, he has done professional misconduct under clause (1) and (3) of the Part- III of second schedule of the Act.*
- c) *(3) while inviting professional work from another cost accountant or while responding to tenders or enquiries or while advertising through a write up, or anything as provided for in items (6) and (7) of Part I of this Schedule, gives information knowing it to be false. Of PART III PROFESSIONAL MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY.*
- d) *(2) in the opinion of the Council he brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work of Part IV OTHER MISCONDUCT IN RELATION TO MEMBERS OF THE INSTITUTE GENERALLY.*

Thus, CMA for his duty, to the institute rules and regulation. He is regularly defrauds government Ashish Bhavsar is habitual offender and fraudulent member of the profession who has no respect companies.

Prayer:

1. *Based on the evidence provided herein about that CMA Ashish Bhavsar is showing disrespect to the profession of cost accountants and has shown very high level of unprofessional attitude and approach in dealing with his assignments by sheer negligence to his professional duties. Even he has indulged into defrauding the Govt. companies for grabbing the work.*
2. *It is clearly evident that CMA Ashish Bhavsar has no respect for rules of the Institute and his acts are unbecoming of a senior member. I would request you to take disciplinary action on the above mentioned serious violations in the interest of the institute on war footing and fact-tracked manner.*





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3. Looking to the serious gravity of offences, I pray for:
 - a. Removal of his name permanently;
 - b. Awarding highest penalty ; and
 - c. Inform the disciplinary action to the government agencies & private Companies where he is working as auditor.
 - d. Referring the matter to the appropriate court by the council.
3. The complaint was registered by the Disciplinary Directorate after it was found to be in order and the same was proceeded with in the manner as prescribed in Chapter III of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. A unique number Com/21-CA(114)/2022 was allotted to the complaint.
4. The entire complaint together with the annexure has been found to be of 201 pages and none of these pages were serially numbered. The annexure consisted of letter of undertaking dated 9th July 2020 and other documents which may have been submitted to South Eastern Coalfields Ltd as part of Tender documents.
5. Be it as it may be, the complaint was sent to the respondent firm vide letter No. G/DD/Com-CA(114)/(FRN.000387)/01/08/2022 dated 22nd August 2022 requesting to send their response through a written statement in their defense within 21 days from the date of service of this letter. Since the complaint is against a firm the letter under reference was sent to the respondent firm with a request to disclose the name or names of the member or members to whom the complaint may be sent. While disclosing the name or names of the members, it was communicated to the respondent firm that it shall also send a declaration signed or, as the case may be, jointly signed by the member or members concerned to the effect that he or she or they shall be responsible for answering the complaint and that the particulars of acts of commission or omission or the copy of the complaint sent to the firm by the Director had been duly received by him, her or them. [Rule 8(1)(b)] of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.





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6. Since, the main crux of the complaint hinges on one CMA Bhavik Ganatra whose name has been alleged to have been shown by CMA Ashish Bhavsar, Partner, respondent firm while submitting tender document to South Eastern Coalfields Ltd, it was considered imperative to investigate on this aspect. Accordingly, as part of investigation u/s 21 of the CWA Act, 1959, a letter No. G/DD/Com-CA(114)/(M-46973)/1/08/2022 dated 19th August 2022 was addressed by Director (Discipline) to CMA Bhavik Ganatra, followed by email communication. The letter is reproduced below in verbatim:

Dear Sir,

This communication is being made under Section 21 of the Cost and Works Accountants Act 1959 and the provisions of the Cost & Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 as amended, in connection with certain disciplinary complaint filed against a member of this Institute.

It is given to understand that in response to a tender [Tender Notice No. SECL/BSP/CMAC/e-Eol/406 dated 27.06.2020] floated by a certain public sector undertaking, CMA Ashish Bhavsar bearing membership number 22646 has, as on 9th July 2020, shown you on the rolls of his firm M/s Ashish Bhavsar & Associates, (Firm Registration No 000387) as an employee. It is given to understand that as on the relevant date, you were said to have been employed with "SHAKTIMAN" (Tirth Agro Technology Pvt. Ltd).

In this connection, you are requested to clarify within a period of 10 days from the receipt of this communication as to whether you are / were at any time, an employee of M/s M/s Ashish Bhavsar & Associates. Non-compliance, if any, shall amount to violation as defined in clause (2) of Part - III of the First Schedule of the CWA Act, 1959 which reads:-

"A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he does not supply the information called for, or does not comply with the requirements asked by the Institute, Council or any of its committees, Director (Discipline), Board of Discipline, Disciplinary Committee, Quality Review Board or the Appellate Authority. "

Yours faithfully,
Rajendra Bose
Director (Discipline)"





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7. CMA Ashish Bhavsar, Partner of the respondent firm (M/22646), in the meantime, submitted his written statement, the main gist of which is reproduced below:
- The respondent confirmed that CMA Bhavik Gantra (46973) was working, with their partnership firm M/s Ashish Bhavsar & Associates (FRN 000387), as a paid Cost Accountant from 1-11-2018 to 28-10-2021. Further, salary payments to him were being made through banking channels only.
 - As per the relieving cum service certificate provided to CMA Bhavik Gantra from HR Department of M/s. Tirth Agro Technology Pvt. Ltd., CMA Bhavik Gantra was working with M/s. Tirth Agro Technology Pvt. Ltd. from 05.06.2017 to 07.05.2018. The same letter was produced to the respondent firm by CMA Bhavik Gantra while joining their firm. The copy of letter was attached as **Annexure- I**
 - CMA Ashish Bhavsar, however, refrained from commenting regarding the linked in profile of CMA Bhavik Gantra, which was his personal matter and therefore, he could not be held responsible on any count.
 - CMA Ashish Bhavsar concluded by stating that the complaint is false and malicious with intent to malign his reputation as a member of WIRC. He requested to drop the proceedings immediately.
8. On careful perusal of annexure I submitted by the Partner of the respondent firm, it is clear that CMA Bhavik Gantra was working with Tirth Agro Technology Pvt Ltd (SHAKTIMAN) from 5.06.2017 to 7.05.2018 as evident from the letter of Shri Gaurav Amin, Asst. General Manager, Human Resources.
9. The written statement of the Partner of the respondent firm numbering three pages in total (including annexure) was duly forwarded to the complainant vide letter No. G/DD/Com-CA(114)/(M-9688)/02/09/2022 dated 7th September 2022 requesting the complainant to send his rejoinder within 21 days from the date of service of this letter.
10. The complainant vide letter dated 27th September 2022 submitted his rejoinder. He inter alia stated that:-





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- (a) CMA Ashish Bhavsar has given fake and general reply as there is no evidence submitted regarding payment through Banking channels for the period 01.11.2018 to 28.10.2021.
- (b) CMA Ashish Bhavsar has given fake reply as there is no evidence regarding his employment as he has shown on his linked-in profile that he was employee and still is employee of M/s. Tirth Agro Technology Pvt. Ltd. He has not produced any evidence as CMA BhavikGanatra (M-46973) was employee of M/s. Ashish Bhavsar and Associates (FRN 000387). Request to check evidence with the institute for membership renewal.
- (c) The surname referred by CMA Bhavsar in his written statement is "Gantra" and not "GANATRA" which is his real surname. This gives strong belief that CMA BhavikGanatra was never an employee of M/s. Ashish Bhavsar & Associates, FRN 000387.
- (d) CMA Ashish Bhavsar and CMA Ganatra has entered into criminal conspiracy for financial benefit by securing Cost Audit by giving fake declaration and securing points in competitive cost audit bidding.
- (e) Either Mr. Ganatra has given fake details on LinkedIn Profile and was also doing job at two places simultaneously without disclosing to either party, viz. M/s. Tirth Agro Technology Pvt. Ltd. & M/s. Ashish Bhavsar & Associates as well to the Institute.
- (f) Not to involve CMA A.G. Dalwadi Central Council Member and Member of Disciplinary Committee in proceedings for this case as CMA Ashish Bhavsar and CMA Ashwin Dalwadi are Chapter and Regional Committee member and are having mutual interest.
11. CMA Bhavik Ganatra, in the meantime, by his letter dated 29th August 2022 (received by the Disciplinary Directorate on 5th September 2022) responded to the query of the Disciplinary Directorate which was sent to him vide letter No. G/DD/Com-CA(114)/(M-46973)/1/08/2022 dated 19th August 2022 stating inter alia that :
- a) He served Tirth Agro Technology Pvt Ltd from 5.06.2017 to 7.05.2018.
- b) He served the respondent firm (FRN 000387) as paid Cost Accountant from 1.11.2018 to 28.10.2021.





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He enclosed the relieving-cum-service certificate of Tirth Agro Technology Pvt Ltd duly signed by the Asst. general Manager – Human Resources which show that CMA Bhavik Ganatra had served the company from 5.06.2017 to 7.05.2018.

2.0 Findings

12. From the complaint, written statement and especially the rejoinder, the Board after due consideration is of the opinion that the complaint lacks merit and is not tenable since the facts placed before the Board are otherwise. The Board's conclusion is due to the following reasons:

- i. The complainant's allegation that CMA Ashish Bhavsar had shown the name of CMA Bhavik Ganatra while submitting tender in SECL is not substantiated by the Complainant. The records clearly show that CMA Bhavik Ganatra was employed as a 'paid cost accountant' with the respondent firm on the date of submitting tender to SECL i.e., on 9th July 2020.
- ii. The letter from the Asst. General Manager (HR) clearly shows that CMA Bhavik Ganatra was working in Tirth Ago Technology (P) Ltd as Jr. Accountant in Finance & Accounts Department from 05.06.2017 to 07.05.2018. This clearly shows that CMA Bhavik Ganatra was not employed with Tirth Ago Technology (P) Ltd on 9th July, 2020, the date on which the Respondent Firm had submitted its tender to SECL.
- iii. The complainant's complaint therefore is not supported by facts on record.
- iv. As far as the LinkedIn profile of CMA Bhavik Ganatra is concerned, it is possible that CMA Bhavik Ganatra did not update his profile on LinkedIn. However, that is a personal matter of CMA Bhavik Ganatra and does not affect the issue under consideration by the Board, i.e., complaint of misrepresentation by CMA Ashish Bhavsar. The LinkedIn profile of CMA Bhavik Ganatra, consequently, has no relevance so far as the Complaint under consideration is concerned.

3.0 Order

13. The complaint of the complainant has no merit and the proceedings against the respondent firm be dropped.



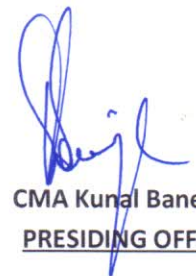


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14. In view of the foregoing, there is no merit in the information and accordingly, the matter is closed in accordance with Rule 9(3)(a) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
15. The matter, accordingly, stands disposed of.

 10/02/2023
CMA Kunal Banerjee
PRESIDING OFFICER

