



THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

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

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

The Board of Discipline u/s 21A

The Institute of Cost Accountants of India

In the matter of:- Information No Inf/21-CA (48)/2017

CMA Harshad S Deshpande (M/25054) ----- Informant

V/s

Shri Avinash S Thorat (M/12857)-----Respondent

ORDER

Dated 15/05/2020

1. A letter dated 10/12/2017, was received under Rule 7 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, ("the Rules), from Shri Harshad S Deshpande (hereinafter referred to as 'the Informant'), to treat this as an information to initiate disciplinary proceedings against CMA Shri Avinash S Thorat (M/12857) (hereinafter referred to as 'the Respondent).
2. The Informant *inter-alia* stated/alleged that:
 - i) CMA Avinash Thorat is senior member of the Institute and also opted for certificate of practice post his retirement.
 - ii) CMA Avinash Throat approached one of our client M/S Eagle Burgmann India Pvt Ltd (CIN U29299PN1973PTC030296). We had conducted Cost Audit for Eagle Burgmann India Pvt Ltd for FY 2015-16. Subsequently CMA Avinash Throat using his personal relations secured Cost Audit of M/s Eagle Burgmann India Pvt Ltd for FY 2016-17 & 2017-18.
 - iii) Our senior member CMA Avinash Thorat has not sent intimation to previous auditor as required under the provisions of clause (8) of part I of the First Schedule to the Cost and Works Accountants Act, 1959.
 - iv) As per law he has to give intimation to previous auditor before accepting such appointment however he has not only accepted the appointment without intimation to previous auditor but also subsequently conducted Cost Audit of M/s Eagle Burgmann India Pvt Ltd fir FY 2016-17 and submitted the Report to MCA and also accepted appointment for FY 2017-18.



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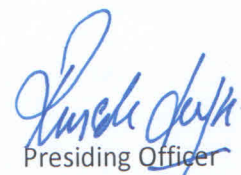
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- v) *This is contravention of the provisions of clause (8) of part I of the First Schedule to the Cost And Works Accountants Act, 1959 amounting to professional misconduct.*
- vi) *This is also setting up bad precedence of one respected senior member post retirement grabbing the assignment of young member like me.*

He requested Director (Discipline) of ICAI to initiate appropriate action against CMA Avinash Thorat for his misconduct as practicing member of the Institute.

3. The respondent was intimated vide letter dated 20th March, 2018 to send response to the Information through a written statement in his defence within 21 days from the date of service of the letter.
4. The respondent vide his letter dated 26th March, 2018 denied the allegations made against him and stated that intimation letter dated 25th August, 2015 was sent at the address provided by M/s Eagle Burgmann India Pvt Ltd through ordinary post in good faith. He realised his mistake of not sending it by Regd. Post Ad. He told that he will take all the care in future.
5. The Director (Discipline) vide his prima- facie opinion dated 17/08/2019 stated that on perusal of the Information and written statement Director (Discipline) is of the view that the as there is no prescribed mode of sending intimation to the previous auditor, ordinary post can be considered as proper intimation as required under the provisions of the CWA Act.
6. On perusal of the complaint, written statement, prima facie opinion of the Director (Discipline), related material on record and in totality of all the facts and circumstances of the case, Board arrived at the conclusion that intimation to the previous auditor as required under the provisions of clause (8) of Part I of the First Schedule to the Cost and Works Accountants Act, 1959 was given by the respondent to the Informant vide letter dated August 25, 2016 and the letter was sent through ordinary post in good faith. As the rule is silent about the mode of sending intimation, 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.

Accordingly, the complaint stands disposed off.


Presiding Officer