

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 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(74)/2019

The Institute of Indian Foundrymen.....Complainant

Vs

CMA Surajit Datta (M/14885).....Respondent

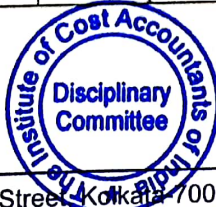
PRESENT

1. CMA Vijender Sharma, Presiding Officer
2. CMA Biswarup Basu, Member
3. CMA P. Raju Iyer, Member
4. CA Nalini Padmanabhan, Government Nominee
5. CA G.V. Krishna, Government Nominee

1.0 FACTS OF THE CASE

1. The Disciplinary Directorate was in receipt of a complaint under Sections 21/22 of the Cost and Works Accountants Act, 1959, read with sub-rule (1) of Rule 3 of the Cost and Works Accountants (Procedure of investigations of professional and other misconduct and conduct of cases) Rules, 2007 in Form I dated 7th June 2019 together with the prescribed complaint fee from The Institute of Indian Foundrymen, (hereinafter referred to as the "complainant") against CMA Surajit Datta, (hereinafter referred to as the "respondent"), bearing membership number 14885.
2. The gist of the allegation of the complainant which is given in tabular form specifying the expectations of the complainant in terms of the role that the respondent was supposed to discharge as CFO is given below:

S. NO.	ROLE AS PER APPOINTMENT LETTER/ICAI GUIDELINES	STATUS OF COMPLIANCES
1.	The respondent was	The scope of work of the respondent who was



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<p>appointed on 12th December, 2014. At the time of appointment following job description was assigned :-</p> <ol style="list-style-type: none">1. To be overall responsible for planning, increase in income and monitoring of receipt and expenditure of funds of IIF as per laid guidelines.2. To help in measurable/verifiable goal setting for IIF and COF's.3. To protect the vital assets of the Institute, ensure compliance with financial and tax regulations, close the books correctly and communicate value and risk issues to stakeholders.4. To put in place an efficient and effective finance system/process providing a variety of services to IIF such as financial planning and analysis, treasury, tax and other finance operation.5. To participate in strategy planning and help influence the future direction of Association through financial leadership and aligning operation and finance strategy to grow the Institute. In addition, to play an integral role in supporting other long	<p>appointed as the CEO was as follows :-</p> <ol style="list-style-type: none">1. The respondent was overall responsible for preparation and maintenance of accounts at Head Office, Four Regions, Chapters, NCTS, FIC, CET, Exhibition Account, IFC (Residual Account) and IFEX (Residual Accounts), IFC and IFEX.2. The respondent was overall responsible compliance(s) pertaining to Direct Tax, Service Tax, GST and Laws prevalent to IIF.3. The respondent was responsible for implementation of GST w.e.f. 01.07.2017 in letter and spirit. In other words he was responsible to deal with those parties who were GST compliant.4. The respondent was responsible to maintain close coordination with Internal Auditor, further to oversee that the Internal Audit assignment was executed so that it commensurate with the size of the IIF. It was also expected that the respondents CFO should have reviewed the reports and pointed out deficiencies in the Internal Audit assignment. The respondent as CFO was also responsible that Internal Auditor visits every place and overview quality of their work. In case it is not fulfilling/scope of work of the IIF expectations taking up the matter with Internal Auditor to comply with scope of work or ultimately replacing the Internal Auditor.5. The respondent was responsible to maintain close coordination with Statutory Auditor, further it was the responsibility of the CFO to draft Notes to accounts giving full and descriptive disclosures relating to the IIF so that accounts should give true and fair view. It was also expected that the CFO should have reviewed the half yearly
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<p>term investments of the Institute.</p> <p>6. To stimulate and drive the timely execution of change in the finance function or the enterprise. Using the finance management tools, to selectively drive operational improvement initiatives such as improved enterprise, cost reduction, procurement, pricing execution and other process improvements and innovations that would add value to IIF.</p> <p>7. To put in place risk management and maintain strong environment and financial reporting process.</p> <p>8. Any other responsibility that may be assigned by NOB and/or NC.</p> <p>Copy of the Appointment letter dated 12th December, 2014 is enclosed as C-1 on page no. 11 - 15</p>	<p>reports including physical verification of fixed assets and pointed out deficiencies in the Statutory Audit assignment. The respondent was also responsible that Statutory Auditors visits every place and overview quality of their work as per their scope of work. In case it is not fulfilling the expectations of the complainant taking up the matter with Statutory Auditor to comply with scope of work or ultimately replacing the Statutory Auditor.</p> <p>6. The respondent was responsible for treasury/Investment management so that the IIF earns more revenue from the Investment portfolio. The respondent was responsible for proper maintenance, disclosure in Investment Committee meeting of the IIF.</p> <p>7. The respondent was responsible for proper and correct resolutions of the Management committee with regard to operation of Bank account.</p> <p>8. The respondent was responsible for preparation of Financial Statements of IIF and was also responsible that these Financial Statements are free from material misstatements and facts essential for the preparation of Financial Statements.</p> <p>9. The respondent was responsible for proper handling of Income tax matters so that the interest of IIF is protected.</p> <p>10. The respondent was responsible for safe guarding the interest of IIF as stipulated in his appointment letter.</p> <p>11. The respondent was in full time employment with IIF since 12th December, 2014 at the same time he was holding full time COP.</p>
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2.	<p>The respondent was overall responsible for preparation and maintenance of accounts at Head Office, Four Regions, Chapters, NCTS, FIC, CET, Exhibition Accounts, IFC (Residual Account) and IFEX (Residual Account), IFC and IFEX.</p>	<p>Reference is drawn to Part B EXPLANATORY NOTES TO FINANCIAL STATEMENTS for the Annual accounts 2017-18 and 2016-17 where it has been categorically stated that "Receipt & Payment statements of Head Office, four Regions, Chapters, NCTS, FIC, CET, Exhibition Account, IFC (Residual Account) and IFEX (Residual Account), IFC and IFEX have been consolidated by adding together the likes head thereon.</p> <p>From the above statement it can be construed that no proper books of accounts were maintained for each activities (i.e. Cost Centre or profit Centre) further no consolidated books of Accounts were maintained at Head Office, no books of accounts were maintained at four Regions, Chapters, NCTS, FIC, CET, Exhibition Account, IFC (Residual Account) and IFEX (Residual Account), IFC and IFEX. This shows that no internal control system and mechanism at these places. The process of consolidation of accounts shows that the same was done without any basis and rationale.</p> <p>It construes that the accounts were not properly drawn or is vague, not giving proper disclosures in order to conceal and mislead the reader/stakeholders of Annual Financial statements.</p>
3.	<p>➤ The respondent was responsible for overall compliance(s) pertaining to Direct tax, Service Tax, GST and Laws prevalent to IIF.</p> <p>➤ The respondent was responsible for implementation of GST w.e.f. 01.07.2017 in letter and spirit. In other words he was responsible to deal with those parties who GST compliant.</p>	<p>Reference is drawn to note no. 8(a) "COMPLIANCE OF STATUTORY MATTERS" to the Notes to Accounts for the year 2017-18 :- During the year, the Institute generally has been regular in depositing the dues of GST, Service Tax, TDS of Contractor, professionals and employees within due date. Returns are also filed accordingly. However net amount of Rs. 6,61,491/- as liability for GST has been carried forward for payment/adjustment in the subsequent year.</p> <p>Reference is also drawn to Internal Audit Report(s) of M/s. DATTA CHAKRABORTY & MANDAL for the year 2017-18 where the</p>





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	<p>➤ The respondent was responsible to maintain close coordination with Internal Auditor, further to oversee that the Internal Audit assignment was executed so that it commensurate with the size of the IIF. It was also expected that the respondent as the CFO should have reviewed the reports and pointed out deficiencies in the Internal Audit assignment. The respondent was also responsible that Internal Auditor visits every place and overview quality of their work. In case it is not fulfilling/scope of work of the IIF expectations taking up the matter with Internal Auditor to comply with scope of work or ultimately replacing the Internal Auditor.</p>	<p>contents of the report do not commensurate with size of IIF and are/were deficient in nature. This fact can further be corroborated where the IIF changed their Internal Auditors for the year 2018-19 appointed Deepak Gulati & Associates Chartered Accountants to conduct the Internal Audit. On submission of Internal Audit report of IIF certain abnormalities were observed in the compliances of GST Act apart from other abnormalities, the management decided to get GST Audit for the period 01st July, 2017 to 31st July, 2018 from their existing Internal Auditors Deepak Gulati & Associates Chartered Accountants. The comparison of two reports on GST compliance shows the negligence of the respondent M/s. DATTA CHAKRABORTY & MANDAL and the Statutory Auditor where the IIF was put to risk of implications of non-compliance of GST Act. (A copy of the Internal Audit Reports of M/s. DATTA CHAKRABORTY & MANDAL, the then Internal Auditors for the quarter ending 30th June, 2017, 30th September, 2017, 31st December, 2017 and 31st March, 2018 was enclosed)</p> <p>The respondent is guilty of the following clause :-</p> <p>Clause (7) : is grossly negligent in the conduct of his professional duties under Cost and Works Accountant Act; Clause (8): fails to obtain sufficient information to warrant the expression of an opinion or makes exceptions which are sufficiently material to negate the expression of an opinion ;</p>
4.	<p>➤ The respondent was responsible to maintain close coordination with Statutory Auditor, further it was responsibility of the respondent to draft Notes to accounts giving full and descriptive disclosures relating to the IIF so that accounts should give true and fair</p>	<p>Reference is drawn to deficient Notes to Accounts, deficient Internal Audit Report on which reliance was placed by the Statutory Auditors while framing his opinion apart from that the Statutory Auditors were required to visit Head Office, Four Regions, Chapters on half yearly basis. The CFO did not verify the contents of the report either of the then Internal Auditor and/or half yearly Statutory Audit along with physical verification of fixed assets. The respondent was negligent in drafting of</p>





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<p>view. It was also expected that the respondent should have reviewed the half yearly reports including physical verification of fixed assets and pointed out deficiencies in the Statutory Audit assignment. The respondent was also responsible that Statutory Auditor visits every place and overview quality of their work as per their scope of work. In case it is not fulfilling/scope of work of the IIF expectations taking up the matter with Statutory Auditor to comply with scope of work or ultimately replacing the Statutory Auditor.</p> <p>➤ The respondent was responsible for treasury/investment management so that the IIF earns more revenue from the Investment portfolio. The respondent was responsible for proper maintenance, disclosure in Investment Committee meeting of the IIF.</p> <p>➤ The respondent was responsible for preparation of Financial Statements of IIF and was also responsible that these Financial Statements are</p>	<p>annual accounts this facts can be corroborated from the following :-</p> <p>➤ The Financial Statements of IIF is devoid of depreciation schedule, which is mandatory requirement of Annual Financial Statements. This shows the "callous approach" of the respondent. This tantamount to fudging of accounts the reader cannot understand detail of assets purchased, sold/discarded etc.</p> <p>➤ The observations/deficiencies, if any, reported (though the report is silent) in the physical verification of fixed assets at Head Office, Four Regions, Chapters etc. regarding tallying with fixed Assets Register and reconciliation with Books of Accounts were not mentioned. It is further apprised that no details of assets were maintained, prepared and tallied for Head Office, Four Regions, Chapters etc.</p> <p>➤ The CFO did not consider the Capital work-in-progress as part of Fixed Assets thus resulting in misstatement of facts in the Balance Sheet and Notes to Accounts. The respondent deliberately misled the IIF by not furnishing full details of Capital Work-in-Progress.</p> <p>➤ Reference is drawn to Note 5 to Part B EXPLANATORY NOTES TO FINANCIAL STATEMENTS which is vague and ambiguous, the same is reproduced "Internal Auditor of Head office has submitted Internal Audit Report on quarterly basis up to 31st March, 2018. Some of the suggestions and findings of the Internal Auditor are being taken up during the year 2017-18 & 2018-19. It is apprised that that the then Internal Auditors M/s. DATTA</p>
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	<p>free from material misstatements and facts essential for the preparation of Financial Statements.</p> <p>➤ The respondent was responsible for proper handling of Income tax matters so that the interest of IIF is protected.</p> <p>➤ The respondent was responsible for safe guarding the interest of IIF as stipulated in his appointment letter.</p>	<p>CHAKRABORTY & MANDAL had submitted their report (though deficient) on following dates :-</p> <table><tr><th>Quarter</th><th>Date of submission</th></tr><tr><td>I</td><td>25th August, 2017</td></tr><tr><td>II</td><td>04th December, 2017</td></tr><tr><td>III</td><td>17th February, 2018</td></tr><tr><td>IV</td><td>22nd May, 2018</td></tr></table> <p>The 'callous attitude' of the respondent demonstrated that first of all he did not pursued the matter with the then Internal Auditors M/s. DATTA CHAKRABORTY & MANDAL to submit the report on time so that corrective actions can be taken secondly after getting the report on 22nd May, 2018 (Report has been back dated by 15 days though the report contains information upto 30th May, 2018) necessary adjustments/entries in the books of accounts could have been done as the Financial were signed only on 15th June, 2018.</p> <p>➤ There is mismatch/lack of clarity/ambiguity in the Note No. 12 Contingent Liability relating to position of Income Tax demand for different years of the Audited Financials 2017-18 vis-à-vis Internal Audit Report for the fourth quarter of 2017-18 of the then Internal Auditors M/s. DATTA, CHAKRABORTY &MANDAL.</p> <p>The respondent is guilty of the following clause :-</p> <p>Clause (7) : Is grossly negligent in the conduct of his professional duties under Cost and Works Accountant Act ; Clause (8) : fails to obtain sufficient information to warrant the expression of an opinion or makes exceptions which are sufficiently material to negate the expression of an opinion ;</p>	Quarter	Date of submission	I	25 th August, 2017	II	04 th December, 2017	III	17 th February, 2018	IV	22 nd May, 2018
Quarter	Date of submission											
I	25 th August, 2017											
II	04 th December, 2017											
III	17 th February, 2018											
IV	22 nd May, 2018											
5.	➤ The respondent was in full time employment with IIF	Reference is drawn to the appointment letter dated 12 th December, 2014 on full time										





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	since 12 th December, 2014 at the same time he was holding full time COP.	employment with IIF, the respondent at the time of accepting the appointment did not disclose the material fact that he is in full time practice as per the Institute of Chartered Accountants of India records.
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3. The respondent was informed vide letter No. G/DD/(M-14885)/Com-C-74/1/06/2019 dated 20th June 2019 about the complaint together with its annexure requesting him to send his response through a written statement in defence within 21 days from the date of service of the letter.
4. The respondent vide letter dated 29th July 2019 submitted his written statement which is reproduced below in verbatim:

“Dear Sir,

I am surprised to receive the above letter on 15.7.2019 from your office. The letter quoted Form ‘I’ but said form does not bear the membership no. of CMA Vineet Jain and his address as per membership record of ICAI which are mandatory as per my knowledge goes. Mr. Jain, who is not an Executive of the Institute and thus has no authority to lodge such complaint against a former CFO.

Moreover the facts stated therein are malafide and with intention to harass me without having any proof or substance. The annexure are manufactured and not attested copy of original documents. Moreover the languages used by Mr. Jain in the said complaint are insulting and defamatory in nature which may kindly be noted for future reference.

There is material suppression of document of my leaving the said Institute and their on spot release order, way back in August 2018 and also my claim of post retirement benefits of around Rs. 5 lakh is still unpaid by them despite several written request. This may also be noted for future reference.

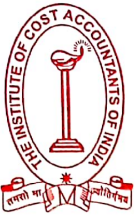
The complaint made, also not within the jurisdiction of the Institute of Cost Accountants of India as I am not a member of our Institute with COP.

Hence the complaint itself is void ab-initio. I request you to kindly reject the complaint under intimation to all concerned.

Regards,
Sincerely yours,

CMA Surajit Dutta”





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5. The written statement dated 29th July 2019 of the respondent was sent to the complainant in the name of Shri Vineet Jain, Secretary of IIF vide letter No. G/DD/Com-C-74/2/12/2019 dated 3rd December 2019 requesting the latter to send his rejoinder within 21 days from the date of service of the letter under reference.
6. The complainant vide letter dated 20th June 2020 submitted the rejoinder which is reproduced below:
 - i. That, at the outset, the Complainant states that blasphemous and insipid insinuations created and orchestrated by the Respondent are the expressions of his frustrations evolving from prejudices on account of inconvenient disclosures made by the Complainant.
 - ii. That the Complainant humbly submits that the Complaint was filed on behalf of the THE INSTITUTE OF INDIAN FOUNDRYMEN in his capacity as Hon. Secretary of the organisation but not in his personal capacity, it construes that any person holding Hon. Secretary post shall step into the shoes of the Hon. Secretary and shall be bound by the Complaint. It is wrong on the part of the Respondent for misleading the Director Discipline of the Hon'ble Institute on the legal authority of the Hon. Secretary of the THE INSTITUTE OF INDIAN FOUNDRYMEN.
 - iii. That the Complainant who was holding the post of Hon. Secretary has been duly authorized by the Honorary President of the INSTITUTE OF INDIAN FOUNDRYMEN being authorized by the 2nd National Council Meeting held on 06/10/2018 at Pune.
 - iv. That the Hon. President of the INSTITUTE OF INDIAN FOUNDRYMEN has the power to delegate any of the work to the Vice-President, Hon. Secretary and Hon. Treasurer as per Memorandum of Association & Regulations (bye-Laws) of THE INSTITUTE OF INDIAN FOUNDRYMEN. [Copy of the Memorandum of Association & Regulations (bye-Laws) was enclosed as Annexure I].
 - v. That the Complainant reiterates the contents of its complaint filed on behalf THE INSTITUTE OF INDIAN FOUNDRYMEN on 20th June, 2019 but the same are not repeated for the sake of brevity except wherever necessary.
 - vi. That the Respondent has failed to put on record any material and verifiable evidences to defend himself and deny any allegations (which was duly supported with documentary evidences) in the complaint filed against the Respondent.
 - vii. That the Complainant submits that all the contents and allegations against the Respondent in the complaint filed against the Respondent have been substantiated with facts and evidences whereas the Respondent have not substantiated any cogent reply,





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documentary evidences to deny the allegations, it construes that a Respondent is not having defence and reply to the Complaint, merely stating/denying allegation(s) without proper documentary evidences is bad in law and cannot be accepted in any Court of law and /or Hon'ble Institute.

viii. That the Respondent has stated that "Complaint is not within the jurisdiction of the Hon'ble Institute that he is not member of the Institute with COP". It is submitted that the complaint is against the member of the Hon'ble Institute it does not make any difference on holding or not holding COP, since the matter is decided on the membership of the Hon'ble Institute.

ix. That there is no material suppression of any fact by the Complainant in the complaint against the Respondent and in no part of the complaint there is any defamatory or insulting references against the Respondent. The Respondent have failed to point out any such defamatory or insulting references.

x. That the Respondent is guilty of the following clauses :-

Clause (7): is grossly negligent in the conduct of his professional duties under Cost and Works Accountants ;

Clause (8): fails to obtain sufficient information to warrant the expression of an opinion or makes exceptions which are sufficiently material to negate the expression of an opinion ;

xi. That the Complainant humbly submits to frame the Prima Facie Opinion against the Respondent as per the laid down procedure of the Hon'ble Institute.

xii. That the Complainant reserves the right to place on record any material documentary evidences which may come before us during the proceeding against the Respondent before the Hon'ble Institute.

7. As part of the investigation that the Director is empowered to do u/s 21 of the Cost and Works Accountants Act, 1959, a letter No. G/DD/Com-CA(74)/IIF/3/04/2022 dated 19th April 2022 was addressed to Shri Vineet Jain, Hon. Secretary, IIF seeking clarifications on the following:

(1) Did CMA Surajit Datta, respondent resign from the services of your Institute or was he terminated? Please provide documentary evidence.

(2) Was any show cause notice issued to the respondent prior to filing the instant complaint with the Disciplinary Directorate of this Institute that he has been found grossly negligent in the conduct of his professional duties on matters on which the instant complaint is based? If so, please provide details thereof.





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- (3) If the answer to (2) above is in negative, why no show cause has been issued to the respondent about his negligence in the matter of performing his assigned duties and responsibilities?
- (4) What was the strength of the Finance/Accounts Department and what were the qualifications of those employees employed in the Department together with their respective designations.
- (5) Has the Internal Auditor M/s Datta, Chakraborty & Mandal made any adverse remarks against the respondent by way of any communication to him? If so, please provide the details thereof.

The complainant was also requested to provide a certified copy of the resolution passed by the Council of The Institute of Indian Foundrymen (IIF) authorizing him to file the instant complaint on behalf of his Institute. A reminder to this effect was given on 5th August 2022.

8. Similarly, another letter No. G/DD/Com-CA(74)/(M-14885)/2/04/2022 dated 28th April 2022 was issued to the respondent seeking the following clarifications from him within a week:
 - i. What was his designation in the IIF and what was the duration of his employment in the said organization?
 - ii. Did he resign from the services of the Institute or was he terminated by the said Institute? Please provide documentary evidence.
 - iii. Did he receive any show cause/warning prior to his severance from IIF stating that he was negligent in the conduct of his professional duties on matters on which the instant complaint is based? If so, please provide a copy of such show cause notice/warning.
 - iv. What was the strength of your Finance/Accounts Department and what were the qualifications of those employees employed in the Department together with their respective designations.
 - v. Has the Internal Auditor M/s Datta, Chakraborty & Mandal made any adverse remarks against him by way of any communication to IIF? If so, please provide the details thereof.

9. The respondent, by an email dated 5th May 2022 received by the Disciplinary Directorate at or about 5.17 PM responded as follows:

“Dear Mr. Rajendra Bose,

I am in receipt of your letter dated 28.4.22. On above subject.
Firstly, I had submitted reply with details to your office long back, which has no mention in this letter.





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As it's about 2 years I need to look for the papers and information thereof so please allow me time of 30 days to get back to you along with more details over and above already submitted to you.

Regards

Surajit Datta MNo. 14885"

10. Since no reply from the respondent was forthcoming even after three months, another letter No. G/DD/Com-CA(74)/(M-14885)/3/08/2022 dated 5th August 2022 was addressed to the respondent, followed by an email on the same date sent at or about 4.39 PM requesting the respondent to provide replies to the above mentioned queries of the Disciplinary directorate within a week of receipt of communication. The respondent, this time, by an email dated 10th August 2022 sent the following email to the Disciplinary Directorate which was received at or about 6.41 PM:

"Director (Discipline)

The Institute of Cost Accountants of India.

Dear Mr. Rajendra Bose,

May I know the complainant name and his / her membership Number for my record? It's not mentioned in your letter.

subject to above information and with reference to your trailing mail I would like to reply as follows pointwise.

1. I was appointed as Sr.Director (CFO) of IIF HO at Kolkata, on 12th December 2016 and worked upto 30th August 2018.reporting to ED and also Chairman Finance Committee / Hony. Treasurer.

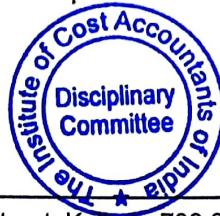
2. I was forced to resign under compulsion from the Institute suddenly at Delhi where I was invited to hold a meeting with Management. The version of the letter was dictated under a closed door room and even, I was not allowed to talk to my family also and my mobile phone was taken out by one of the employee. The copy of my letter is not available readily with me but it can be collected from IIF. Even I was not paid pending travelling bills and terminal benefits in full by deducting unadjusted tour advance and manufactured excess leave balance created by admin without considering the out of office duty for which diary was maintained at office. As per my record I still have receivable of Rs.3.66 lakh from the IIF which despite several reminders not been paid till date.

3. I was not served or received any show cause or warning letter from IIF prior to my severance from IIF at any point of time during my tenure. Rather my work and performance was appreciated by management in every annual meet and also in presidents' column in IIF journal which may kindly be referred to with IIF journal division at HO kolkata.

4. There are four full time employees under me in F&A department. Sr Executive (CA intermediate), Asst Manager (B.COM) , Executive (B.COM), Jr. Executive (B.COM).

5. As far as my knowledge goes no such information about any adverse remarks made by the said internal Auditor firm was passed to me by the management nor I have any copy of the same.

Kindly revert if any further information is required on this matter.





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CA.SURAJIT DATTA (FCA,FCMA.)

Surajit Datta & Associates

Chartered Accountants

H.O.Commercial Block F,Sugam Park. Narendrapur.Kolkata 700103.

Call/Whatsapp +918240186376''

11. The complainant organization did not respond to the letters Nos G/DD/Com-CA(74)/IIF/3/04/202 dated 19th April 2022, G/DD/Com-CA(74)/IIF/4/08/2022 dated 5th August 2022 and letter No. G/DD/Com-CA(74)/IIF/5/09/2022 dated 14th September 2022 of the Disciplinary Directorate seeking the following clarifications as given below:

- (1) Did CMA Surajit Datta, respondent resign from the services of your Institute or was he terminated? Please provide documentary evidence.
- (2) Was a show cause issued to the respondent prior to the filing the instant complaint with the Disciplinary Directorate of this Institute that he has been found grossly negligent in the conduct of his professional duties on matters on which your complaint is based? If so, please provide details thereof.
- (3) If the answer to (2) above is negative, why has no show cause been issued to the respondent about his negligence in the matter of performing his assigned duties and responsibilities?
- (4) What was the strength of your Finance/Accounts Department and what were the qualifications of those employees employed in the Department together with their respective designations.
- (5) Has the Internal Auditor M/s Datta, Chakraborty & Mandal made any adverse remarks against the respondent by way of any communication to you? If so, please provide the details thereof.

It was also mentioned that in case no reply is received within a week's time, it shall be presumed that the complainant has nothing further to add in the instant complaint and accordingly, the information will be processed further in accordance with the provisions of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 without making any further reference to you. The complainant was once again requested to provide a certified copy of the resolution passed by the Council of The Institute of Indian Foundrymen (IIF) authorizing you to file the instant complaint on behalf of your Institute.

12. On careful perusal of the complaint dated 7th June 2019 of the complainant it appears that the allegations against the respondent hinges on negligence/dereliction of duties assigned to him and non-performance of the same. In the complaint itself, the complainant organization mentioned about the "expectations" from the respondent in the day to day discharge of his duties. The complainant has annexed a detailed list specifying the duties that were assigned to the complainant and what was





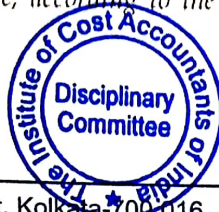
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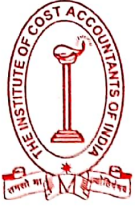
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expected from him. When the complaint itself is read in conjunction with the duties that have been assigned to the respondent, the areas of non-performance of duties and / or negligence are not far too seek. As it appears the allegations of the complainant are basically on the following grounds:

- i. *It was the expectation of the complainant that the respondent whose designation was Chief Financial Officer (CFO) should have reviewed the reports and pointed out deficiencies in the Internal Audit assignment. The CFO was also responsible that Internal Auditor visits every place and overview quality of their work. In case it is not fulfilling/scope of work of the IIF expectations taking up the matter with Internal Auditor to comply with scope of work or ultimately replacing the Internal Auditor.*
- i. *It was also the expectation of the complainant that the CFO should have reviewed the half yearly reports including physical verification of fixed assets and pointed out deficiencies in the Statutory Audit assignment. The CFO was also responsible that Statutory Auditors visits every place and overview quality of their work as per their scope of work. In case it is not fulfilling/scope of work of the IIF expectations taking up the matter with Statutory Auditor to comply with scope of work or ultimately replacing the Statutory Auditor.*
- ii. *Since, as the Chief Financial Officer, the respondent was responsible for preparation of Financial Statements of IIF and was also responsible that these Financial Statements are free from material misstatements, the statutory auditor's qualification in Part B EXPLANATORY NOTES TO FINANCIAL STATEMENTS for the Annual accounts 2017-18 and 2016-17 which states that "Receipt & Payment statements of Head Office, four Regions, Chapters, NCTS, FIC, CET, Exhibition Account, IFC (Residual Account) and IFEX (Residual Account), IFC and IFEX have been consolidated by adding together the likes head thereon" it appears that no proper books of accounts were maintained for each activities (i.e. Cost Centre or profit Centre) further no consolidated books of Accounts were maintained at Head Office, no books of accounts were maintained at four Regions, Chapters, NCTS, FIC, CET, Exhibition Account, IFC (Residual Account) and IFEX (Residual Account), IFC and IFEX. This shows that no internal control system and mechanism at these places. The process of consolidation of accounts, according to the complainant institute, shows that the same was done without any basis and rationale.*
- iii. *It may have been possible that the accounts were not properly drawn and also not giving proper disclosures in order to mislead the readers/stakeholders of Annual Financial statements.*
- iv. *The Internal Audit Report(s) of M/s. DATTA CHAKRABORTY & MANDAL, Chartered Accountants for the year 2017-18 did not, however, highlight any major discrepancy except for certain matters like keeping money in suspense account as revealed from Bank Reconciliation statements of the complainant's bankers, advances made to staff/parties have remained unadjusted since long, delayed filing of IT Returns and GST Returns in certain cases, delayed payment of Corporation Tax, non matching of CGST & SGST figures of GST and the like.*
- v. *The complainant Institute changed their Internal Auditors for the year 2018-19 and appointed Deepak Gulati & Associates Chartered Accountants to conduct the Internal Audit. On submission of Internal Audit report of IIF certain abnormalities were observed in the compliances of GST Act apart from other abnormalities, the management decided to get GST Audit for the period 01st July, 2017 to 31st July, 2018 from their existing Internal Auditors Deepak Gulati & Associates Chartered Accountants. The comparison of two reports on GST compliance, according to the complainant organization shows the*





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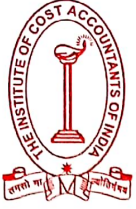
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negligence of CFO Mr. Surajit Datta, M/s. DATTA CHAKRABORTY & MANDAL and the Statutory Auditor where the IIF was put to risk of implications of non-compliance of GST Act.

- vi. *The respondent, at the time of accepting the appointment did not disclose the material fact that he was in full time practice as per the Institute of Chartered Accountants of India records. No approval was taken for joining the IIF on full time basis nor any intimation was given to the Institute of Chartered Accountants of India for updation of records.*
- vii. *The contention of the respondent made in his written statement dated 29th July 2019 that Mr. Vineet Jain complaining on behalf of IIF is not a member of this Institute and therefore, has no locus standi to complaint is not correct as complaint against a member of this Institute can be filed by even a non member.*
13. As regards, the allegations in serial nos (i) to (vi) are concerned, there are reasons to believe that the respondent could have discharged his duties more diligently and could have taken adequate steps to remove/rectify the deficiencies highlighted by the Internal Auditor. Also, the respondent should have kept his management informed with proper feedback on the internal audit qualification and should have taken adequate steps to remove them. The same holds good for statutory audit and GST audit.
14. The Disciplinary Directorate has nothing to do with the fact that the respondent was into full time practice of the Institute of Chartered Accountants of India while in the employment of the IIF. The membership Department had confirmed by an email dated 21st September 2022 sent to the Disciplinary Directorate at or about 3.06 PM that as per the details available from membership database, as also from the corresponding Membership File, Certificate of Practice of this Institute was never granted to the respondent in the past 10 years.
15. The prima Facie opinion formed against the respondent was placed before the Disciplinary Committee in terms of Rule 9(2)(a)(ii) of the Rules on 27th September 2021 but was not agreed to by the Disciplinary committee. *The Committee noted that the instant complaint hinges only on work related issue involving employer and employee.* Director (Discipline) apprised the Committee that though the respondent has been responding to all the queries raised by the Disciplinary Directorate, the complainant has been maintaining silence and letters sent to the latter are not being responded to.
16. The Committee advised Director (Discipline) to communicate with the complainant one final time intimating him that in the absence of any response from him, the matter will be decided on the basis of documents / records available with the Directorate without making any reference to the complainant. In accordance with such directives of the Committee, letter No. G/DD/Com-CA(74)/IIF/6/10/2022 dated 10th October 2022 was sent to the complainant stating that that in case no reply is received within 72 hours of receipt of this communication, it shall be presumed that the complainant organization has nothing further to add in the instant complaint and accordingly, the information will be processed further in accordance with the provisions of the Cost and Works





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Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 without making any further reference to them.

17. The complainant, in the meantime, by an email dated 8th October 2022 (received by the Disciplinary Directorate on 12th October 2022 at or about 8.38 P.M.) which is reproduced in verbatim:

"To,
Director (Discipline)
Disciplinary Directorate
The Institute of Cost Accountants of India
12, Sudder Street, Kolkata-700016

Sub: - FILING OF ADDITIONAL INFORMATION IN RESPECT OF COMPLIANT AGAINST THE MEMBERS OF THE INSTITUTE OF COST ACCOUNTANTS OF INDIA ON BEHALF OF THE INSTITUTE OF INDIAN FOUNDRYMEN 67, TUGHLAKABAD INSTITUTIONAL AREA, NEW DELHI-110062

Respected Sir,

Kindly refer to your letter No G/DD/Com-CA(74)/IIF/4/08/2022 dated 5th August, 2019 and 28th August, 2022 and 19th April, 2022 in the said correspondence you have advised us file the additional information and clarification(s) within one week of receipt of this letter in respect of the CMA SURAJIT DATTA MEMBERSHIP NO 14885.

Before we append our reply, we reiterate the contents of Complaint in Form I dated 07th June, 2019 along with all annexures and our rejoinder dated 20th June, 2020 and the same are not repeated for the sake of brevity except wherever necessary.

The required information and clarification is furnished ad-seriatim:-

1. As per information made available CMA SURAJIT DATTA MEMBERSHIP NO 14885 have resigned from the post of CFO, copy of the resignation letter of Respondent (Ex-CFO) which was submitted by him at Delhi Office of the complainant on 30.08.18, the actual resignation letter is not available with HO though references to it have been made in various subsequent communications, including those by Respondent. Copy of the e-mails in the subsequent communications by the Respondent as well as Complainant are enclosed as Exhibit-1.
2. In response to para (2) and (3) we are enclosing following documents duly attested by former ED Mr Yogendra Goenka / present ED Dr. Abhishikta Roy chowdhury (Acharyya) of The Institute of Indian Foundrymen with Registered & Head Office at 335 Rajdanga Main Road, Kolkata-700107 where the process adopted by the Complainant in dealing with matter is demonstrated.





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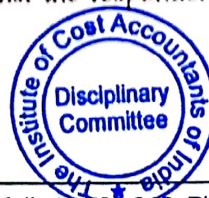
- i. Extract of Resolution No 15/2019-20 from minutes of 3rd National Council Meeting (2019-20) held on Saturday, 30th November, 2019 at Mumbai authorising Mr Yogendra Goenka, Executive Director of The Institute of Indian Foundrymen- copy of the resolution No 15/2019-20 from minutes of 3rd National Council Meeting (2019-20) held on Saturday, 30th November, 2019 is enclosed as Exhibit -2 .
- ii. Extract of the Resolution passed in the National office Bearer Meeting held on 12th April, 2019 at New Delhi authorising Sh Vineet Jain Hon. Secretary of the IIF to file complaint with ICAI and to pursue /reply/attend any further proceedings - extract of resolution dated 12th April, 2019 passed in the National office Bearer Meeting is enclosed as Exhibit-3 .
- iii. Extract of the Resolution passed in the National Office Bearer Meeting held on 06th October, 2018 at Pune where decision was taken to take up the matter with the National Council Meeting for further deliberations and discussions, further to seek the NC's permission to empower them to act out respond as suitable to protect the interest of IIF. -Original extract of resolution dated 06th October, 2018 passed in the National office Bearer Meeting is enclosed as Exhibit-4 .
- iv. Extract of the Resolution passed in the National Council Meeting held on 06th October, 2018 at Pune where the National office Bearer informed the National Council regarding the matter and the NC members agreed to empower the NOB's to deal with the matter as deemed fit to protect the interest of IIF. - Attested copy of resolution dated 06th October, 2018 passed in the National Council Meeting is enclosed as Exhibit-5 .

3. In response to para 4 following were the staff including Respondent at Head Office Accounts Department:-

- a) Mr. Surajit Datta, CFO
- b) Mr. Surajit Chakraborty, Asst. Manager
- c) Mr. Saswata Mukherjee, Mgt. Executive, Finance
- d) Mr. Avijit Mukhopadhyay, Sr. Officer Accts
- e) Mr. Partha Karmakar, Asst. Officer Accts

That the ultimate decision making authority for all financial matters was vested with the CFO (and not the staff under him).

4. In response to para 5 your reference is drawn to the particulars of allegations (Annexure-1) in the Complaint dated 07th June, 2019 against the respondent, where the Complainant have



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explicitly justified the basis of Complaint against the Respondent after drawing comparison with Job Description of the Respondent with deficient reports of M/s Datta, Chakraborty & Mandal, Internal Auditors and Deepak Gulati & Associates Chartered Accountants. These reports were threadbare discussed in the meeting of the National Council and National office Bearer Meeting dated 06th October, 2018. It is submitted it does not require further clarification.

You are requested to kindly consider the same.

Thanking You

Yours Faithfully

C A SANDEEP MANAKTALA

A/R of the Complainant

Encl:-A/a

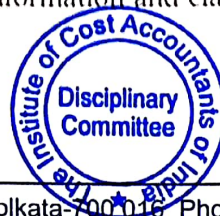
THANKS & REGARDS SANDEEP MANAKTALA"

18. CA Sandeep Manaktala, who has now responded vide email dated 8th October 2022 in response to various letters of the Disciplinary Directorate have talked about 05 (five) nos of Exhibits. But on a careful scrutiny of the annexure, it is found that there are only 03 (three) exhibits and not 05 (five). Exhibit 1 deals with extract of minutes of 3rd National Council meeting held on 30th November 2019 which authorizes one Mr. Yogendra Goenka, Executive Director of the complainant organization to handle the complaints filed by the complainant organization against the respondent and few others as well.

The Exhibit-2 annexed by CA Sandeep Manaktala shows an extract of resolution passed in the National Office Bearer meeting held on 12th April 2019 authorizing Shri Vineet Jain, Hon. Secretary of the IIF to file complaint against the respondent with this Institute and against the respondent and a few others with the Institute of Chartered Accountants of India.

The Exhibit-3 annexed shows an extract of the resolution passed in the National Office Bearer meeting held on 6th October 2018 stating that internal audit and GST audit of IIF at Head office had been conducted by a new firm Deepak Gulati & Associates, Chartered Accountants based at New Delhi. Many accounting errors and non compliances have come to light in course of their audit, several of which have been corrected by HO Finance and Accounts team members under the guidance of the said firm. No resolution can be found in Exhibit -3. No other exhibits can be found.

19. It is also pertinent to mention here that the statement made by CA Sandeep Manaktala in his email dated 8th October 2022 that "The required information and clarification is furnished ad-seriatim" is





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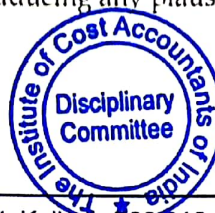
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also not correct since clauses (2), (3), (4) and (5) of Para 10 have not been responded to at all. CA Sandeep Manaktala has chosen to remain silent on the clarifications sought from the complainant vide letters Nos G/DD/Com-CA(74)/IIF/3/04/2022 dated 19th April 2022, G/DD/Com-CA(74)/IIF/4/08/2022 dated 5th August 2022 and letter No. G/DD/Com-CA(74)/IIF/5/09/2022 dated 14th September 2022 of the Disciplinary Directorate.

20. The complainant has also attached with his email extract of various resolutions *inter alia* authorizing the officials of the Institute of Indian Foundrymen to file complainant against the respondent, several emails exchanged with the respondent during the period 31st august 2018 to 15th September 2018, i.e., post resignation and the letter dated 7th September 2018 intimating the respondent about the release of his dues.

2.0 FINDINGS

21. It may be mentioned that the first communication to the complainant was made as early as 19th April 2022 and it took almost six months to respond to the queries raised by the Disciplinary Directorate. It is pertinent to mention here that the complainant has failed to provide replies to all the queries raised by the Disciplinary Directorate. The complainant has maintained complete silence on the issue as to whether any show cause notice issued to the respondent prior to filing the instant complaint with the Disciplinary Directorate of this Institute that he has been found grossly negligent in the conduct of his professional duties on matters on which the instant complaint is based. No suitable response was also provided on the query as to why no show cause has been issued to the respondent about his negligence in the matter of performing his assigned duties and responsibilities.
22. The Committee has given a very thoughtful consideration to the instant complaint. It is also worthwhile to mention here that the internal audit reports of the internal auditors namely M/s Datta, Chakraborty & Mandal and M/s Deepak Gulati & Associates, Chartered Accountants have not made any adverse comment on the performance of the respondent who was an employee in IIF and did not have any professional association with IIF. Neither did the complainant institute issue any caution/warning to the respondent not to speak of a show cause notice. The allegations levelled by the complainant institute have not been proved and appears to be more out of malice rather than anything else.
23. The respondent by an email dated 10th August 2022 had mentioned that he was not served or received any show cause or warning letter from IIF prior to his severance from IIF at any point of time during his tenure. Rather his work and performance was appreciated by management in every annual meet and also in presidents' column in IIF journal.
24. Further, the Department consisted of 04 personnel including a Senior Executive, an Assistant Manager, an Executive and a Junior Executive. Each of these officials would have a defined role as envisaged by the complainant organization. The complainant institute have attempted to put the entire blame on a single person without adducing any plausible evidence





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25. The additional/supplementary information dated 8th October 2022 of the complainant organization which was emailed to the Disciplinary Directorate on 12th October 2022 has been signed by one CA Sandeep Manaktala which cannot be taken on record as there appears to be no resolution that has been provided by IIF to the Disciplinary directorate authorizing to file additional/supplemental response on behalf of the complainant.

3.0 ORDER

26. The clauses (7) & (8) of Part I of the Second Schedule to the Cost and Works Accountants Act, 1959 are not applicable. The complainant organization has failed to prove the allegations against the respondent beyond the shadow of all reasonable doubts.
27. As the complainant institute has not been able to make out a case in its favour, the Committee unanimously decides to drop the proceedings and the matter may be closed as per Rule 9(3)(a) of the Cost and Works Accountants (Procedure of investigations of professional and other misconduct and conduct of cases) Rules, 2007.
28. The complaint therefore, stands disposed of.




CMA Vijender Sharma
PRESIDING OFFICER