

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

Complaint No. Com/21-CA (80)/2019

Shri Amar PalComplainant

v/s

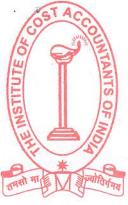
Shri Bidyut Bhadra (M/24521).....Respondent

ORDER

Dated 06/09/2020

1. A complaint dated 06/11/2019, in Form- I was filed under Section 21 of the Cost Accountants Act, 1959, ("the Act") read with Sub- Rule (1) of Rule 3 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, ("the Rules), by Shri Amar Pal (hereinafter referred to as 'the Complainant'), against CMA Bidyut Bhadra (M/24521), (hereinafter referred to as 'the Respondent').
2. The complainant *inter alia* stated/ alleged that:-
 - I. "Shri Bidyut Bhadra is a bonafide Member of the Institute. On 9th April, 2019, he had signed and sent a Report of Internal Audit to Power Grid Corporation of India Ltd., on behalf of the Firm, where he was & is a Partner, flouting the following—
 - a) Letter head of the Firm used in forwarding the report, contains address, Mobile No. and e-Mail ID which were other than the ones available with the institute as Registered Address of the Firm.
 - b) He might have made similar misrepresentations with other organizations also.
 - II. Based on the information from the website of the Institute, he along-with others had submitted a Partnership Deed for Re-constitution, M-5 for Branches (where they cannot produce any document for Branch in one or more cases) and Resignation letters of Partners, whose names are not in new deed. Here, I have to mention that one of the Partners, Mr. Shyama Prasad Ganguli is sick and did not put his signature on his purported resignation letter. Moreover, another Partner, Mr. Mukesh Kumar did not furnish any Resignation letter.





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- III. It proves that Mr. Bhadra managed to get business furnishing false information to Client(s) through some illegal path, which attracts Disciplinary action against him."
3. The respondent was intimated vide letter dated 13th December, 2019 to send response to the complaint through a written statement in his defence within 21 days from the date of service of the letter.
4. The respondent vide his letter received on 04th January, 2020 denied the allegations made against him and stated *inter alia* as below:
5. The respondent vide his letter denied the allegations made against him and stated *inter alia* as below:-
- i. "It appears Mr. Amar Pal fabricated his said complaints based on some confidential official documents of our Firm 'Bandyopadhyaya Bhaumik & Co'. He is neither our Partner nor our official who has the authority to handle or deal with our official confidential documents. It is apparent that he had somehow stolen the attached documents attached with his referred Complaint in form I from our Head office with a malafide intention to tarnish my personal image and also reputation of our Firm.
- ii. I am not supposed to reply any of referred Complaints made by Mr. Amar Pal in Form I (Serial No. 5 Point No. 2 to 4) as he is neither our Partner nor has any locus stand' to interfere in the day-to-day affairs-of our Firm.
- iii. I further reiterate that Mr. Amar Pal questioned the integrity of the Institute when he raised the removal of Mr. Shyama Prasad Ganguli and Mr. Mukesh Kumar from the reconstituted Partnership Deed of our Firm which was duly approved after carrying out due diligence process by the Institute.
- iv. On checking all five Complaints sent to our five Partners it appears that the signature of Mr. Amar Pal is not same in all the Complaints. Even in some Complaints he signed as Amal Pal. I think the Disciplinary Committee should also investigate mismatch in his signature.
- v. Since Mr. Amar Pal is not a Cost Accountant he is not acquainted with the compliance of Cost Auditing business and it is apparent that a CMA who wants to take revenge on us has helped in writing the Complaints in the prescribed form of the Institute (ICAI).





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vi. As such the Complaint is bogus, motivated and without any basis and the Complaint is liable to be dismissed immediately.

I hope the Disciplinary Committee of the Institute would be satisfied with the above clarifications given by me. I, however, would be happy to furnish any, additional information/ clarification sought by the Institute.

In this connection, it is for kind information to the institute that since, the complainant has seriously attempted to tarnish my image and reputation as well as of our firm, I am in seriously thought of exercising the legal action against the so called complainant under intimation to the institute."

5. The written statement of the respondent was sent to the complainant vide letter dated 08/01/2020 for sending rejoinder on the same. In rejoinder dated 24/01/2020 Shri Amar Pal had submitted *inter alia* that:-

"I have nowhere claimed that I have a Cost Accountant or a member of your esteemed Institute. In this regard, point no. - 1 In Form - 1 may please be referred to.

I declare that my signatures, wherever appearing on the papers available with you, have been put by me only and any difference which may be apparent is due to some uncontrolled movement of the pen.

Now I furnish my rejoinder, in the same order, one after another:

i. "Mr. Bhadra, while refuting the charges, has claimed that I have fabricated the charges based on some confidential documents of their firm M/s Bandyopadhyaya Bhaumik & Co. This is in effect, a clear admission of the charges contained in my complaints. I further declare that the papers were not obtained through any illegal means.

ii. I fail to understand, how putting up at the appropriate forum of the unethical and illegal means adopted by them in procuring business can be called Interfering into the day to day affairs of their firm.

iii. I admit; I am not supposed to be aware of the nitty gritty of Cost Auditing as I am not a Cost Accountant. However, it is a well-accepted legal maxim that "Ignorance of law of the land is no excuse". I trust, the corollary to this maxim also holds good.

Moreover, Mr. Bhadra has used the word "revenge" with regard to some unnamed CMA. Since the word "revenge" denotes a reaction to some action, Mr. Bhadra has implicitly admitted that he, individually or jointly, has caused





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severe professional harm to one or more professionals of his ilk. I pray, such little digression may please be pardoned.

However, I would like to categorically declare that the sole purpose of my complaints is to stop some members of the honourable profession like CMA from obtaining assignments through illegal and unethical means.

iv. Considering the submissions above, it can well be said that my complaints are anything but bogus and stand on irrefutable basis, which have also been explicitly and implicitly admitted by the respondent.

I hope, the Disciplinary Committee of the Institute of Cost Accountants of India will be sufficiently satisfied with my rejoinder and deal with my complaints as per the standing provisions of the relevant statutes.

I reserve my right to add / alter the complaints already lodged and place additional documents for consideration in this context in future."

6. As part of investigation, following information were also sought from Director (Membership)
- a) All forms M5 submitted by M/s Bandyopadhyaya Bhaumik & Co (FRN00041)
 - b) Partnership deed submitted by M/s Bandyopadhyaya Bhaumik & Co (FRN00041)
 - c) Enclosures of Form M5, if any

Director (Membership) vide his mail dated 04/07/2020 had provided the desired documents. However, from the documents it is difficult to conclude whether or not the reconstitution of the firm M/s Bandyopadhyaya Bhaumik & Co was validly made or not. Accordingly, mail dated 7th August 2020 was sent to the Sr. Director (Membership) requesting him to

- a) Furnish the professional address, cell number and the e-mail ID of Shri Bidyut Bhadra (M/24521) as recorded in the Membership Directorate.
- b) Whether or not Shri Bidyut Bhadra at any time during the preceding 2 years had submitted an application for reconstitution of firm, M/s Bandyopadhyaya Bhaumik & Co.
- c) If so, whether or not the Membership Directorate has given effect to such request for reconstitution of the above mentioned firm.

The Membership Directorate vide mail dated 12th August 2020 has replied the following

" Professional Address: C/o. Homoeo Pharmacy, Old Murgi Patty, Dimapur (Nagaland) - 797112





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Cell Number : 8974000737

E-mail ID : bidyutbhadra@yahoo.co.in

Preceding 2 years, we received the reconstitution application from the partnership firm 'M/s Bandyopadhyaya Bhaumik & Co. on 27/03/2019 and 06/01/2020.

Reconstitution applications were given effect from 27/03/2019 and 06/01/2020 accordingly''

Thus, it appears that the membership Directorate has given effect to such request for reconstitution of the above mentioned firm.

7. This matter was put up in the 25th meeting of the Board of Discipline held on 13th August 2020. The Board members examined the complaint of the complaint, the written statement of the respondent and the rejoinder submitted by the complainant and observed that there was prima facie nothing on record to prove the allegations against the respondent. However, the Secretary of the Board pointed out to the Board members that the entire issue hinges on reconstitution of the firm M/s Bandyopadhyaya Bhaumik & Co, bearing Firm Registration No. 000041). During the meeting Ms. Malobika Das, Asst. Director (Membership) was advised to join the meeting through video conferencing and she was asked whether the reconstitution of the firm has been validly made to which she replied that she had checked all the relevant documents for giving effect to the reconstitution of the said firm. She further stated that "we accept the reconstitution applications only when it is sent from the partnership firm. Any reconstitution application that has been sent by an individual partner is not accepted." From her statement it appears that in the present case also the Membership Department must have given effect to the reconstitution of the firm. The Board members advised Ms. Das to send an email to the Director (Discipline) confirming that the reconstitution of the firm M/s Bandyopadhyaya Bhaumik & Co (FRN00041) had been done based on request for reconstitution being received from the partnership firm and not from any individual partner.
8. Ms. Malobika Das, by her email dated 20th August 2020 sent on or about stated that *"with respect to the processing of the application for reconstitution of the partnership firm 'M/s, Bandyopadhyaya Bhaumik & Co. - FRN 000041' this is to confirm that the application was processed as per the guidelines of the Institute as laid down"*.





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9. The above mentioned Complaint has been examined in pursuance of Section 21 of the Cost and Works Accountant Act, 1959 as amended in 2006 read with Rule 9 of the Cost and Works Accountants (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007. It is observed that there was nothing on record to prove the allegations against the respondent and the complainant has not been able to adduce any evidence regarding the same. The complaint lacks merit and it is therefore, proposed that the complaint may be disposed of in pursuance of Rule 9 (3) 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)

