

**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
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DISCIPLINARY DIRECTORATE

**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 (93)/2020 CMA Neeraj Sharma (M/35569)
[Complainant] Vs. CMA Sachin Jain (M/42100) [Respondent]

CMA Neeraj Sharma (M/35569)Complainant

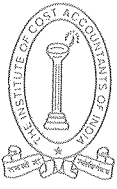
Vs

CMA Sachin Jain (M/42100)Respondent

Facts

1. The Disciplinary Directorate was in receipt of a complaint in triplicate in Form I dated 21st July 2020 together with the prescribed complaint fee of Rs. 2950/- from CMA Neeraj Sharma, (hereinafter referred to as the “complainant”) bearing membership No. 35569 against CMA Sachin Jain (hereinafter referred to as the “respondent”) bearing membership number 42100, alleging certain violations by the latter.
2. As it appears from the complaint, that the allegations of the complainant were on three counts:
 - i. M/s. GLS Films Industries (P) Ltd. appointed M/s. S.R.P.N. & Associates, Cost Accountants as their cost auditor and assigned the cost audit to the firm. However,





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allegedly the bill for Cost Audit was raised by the respondent in his personal name and the same was accepted by the client, viz. M/s. GLS Films Industries (P) Ltd.

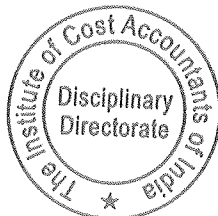
- ii. The respondent called on the bank and had used abusive language against the complainant stating that the former did not know the latter.
- iii. The respondent is said to have taken all documents related to the firm without information and the complainant has been following up for the same.

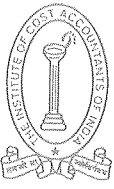
The complainant had adduced copies of letter sent to bank and letter sent to GLS Films Industries (P) Ltd. M/s. S.R.P.N. & Associates as evidence in support of his allegations.

3. On receipt of the complaint dated 21st July, 2020 an acknowledgement thereof was sent by the Disciplinary Directorate to the complainant vide email Ref. No. G/DD/Com-C-93/(35569)/1/07/2020 dated 31st July 2020 and the instant complaint was registered by the Disciplinary Directorate by allotting a unique complaint number Com/21-CA(93)/2020 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.
4. The instant complaint was sent to the respondent via email Ref. No. G/DD/Com-C-93/(42100)/1/07/2020 dated 31st July 2020 requesting him to send his response through a written statement in his defence within 21 days from the date of the e-mail. The respondent, by an email dated 20th August 2020 sent at or about 2.00 PM, submitted his written statement which is reproduced below:

“Dear Sir,

We, SRPN & Associates appointed to conduct the Cost Audit for the FY 2018-19 & on behalf of SRPN & Associates Mr. Sachin Jain (M/ship- 42100) doing the Cost Audit &





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Raised bill by the name of Sachin Jain & Co. just because of Mr. Neeraj Sharma have given written statement to the Bank for closure of Bank Accounts of SRPN & Associates & withdraw of Rs. 25000 without permission from any partner dated 17 Jan, 2020 & change the mail Id Password of the Firm.

Now after Few Months suddenly he came Back & unnecessary harass the clients where there is no involvement because we already divided our client as per mutual consent with all the partners.

Second allegation that I am abuse to Mr. Neeraj Sharma this is totally baseless allegation. I just called to the Bank Manager for enquiry that how of Rs. 25000 withdraws from Bank without any Cheque Book, Internet Banking & ATM.

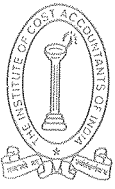
Third allegation that I am taken the entire document related to the firm, this is again baseless allegation because I am taken only that document where I have done the Audit & Signed by me.

Due to harassment by Mr. Neeraj Sharma to the Client I reverse the payment to the company accounts which are transferred by company to the Sachin Jain Personal accounts instead of SRPN & Associates Account.

Thanking You,
Yours faithfully,
SRPN & Associates
Sd/-
(Sachin Jain)
Partner”

5. The written statement dated 20th August 2020 of the respondent was emailed to the complainant vide email Ref. No. G/DD/Com-C-93/(35569)/2/09/2020 dated 25th





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September 2020 at or about 11.38 AM requesting the complainant to send his rejoinder on the written statement within 21 days of the email. As the rejoinder of the complainant was not forthcoming, another email Ref. No. G/DD/Com-C-93/(42100)/2/09/2022 dated 16th December 2021 was sent at or about 11.25 AM requesting the complainant to forward his rejoinder. No objection, however, has been received.

6. As part of the investigation that the Director (Discipline) is empowered to do under Section 21 of the Cost and Works Accountants Act, 1959, an email Ref. No. G/DD/Com-C-93/(42100)/2/09/2020 dated 28th September 2020 was sent at or about 4.23 PM to the respondent, seeking clarification, the relevant portion of which is reproduced below:

“The Disciplinary Directorate is in receipt of an email dated 20th August 2020 containing an one page response through written statement wherein you have stated as follows in the 3rd para:-

Quote

Second allegation that I am abuse to Mr. Neeraj Sharma this is totally baseless allegation. I just called the Bank Manager for enquiry that how of Rs. 25,000 withdraws from Bank without any Cheque Book, Internet Banking & ATM”.

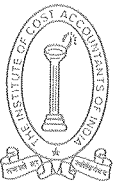
Unquote

The above statement made in your written statement is vague and ambiguous. You are requested to clarify the above statement to make it meaningful.”

7. The respondent, by an email dated 30th September 2020 at or about 3.57 PM responded as follows:

“Allegation imposed by Mr. Neeraj Sharma regarding abusive behaviour with the bank official is totally baseless. I, Sachin Jain, as the representative of SRPN & Associates, called





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the bank because I received a message from bank regarding withdrawal of Rs.25,000/- from the firms bank account without any discussion among partners. Bank representative informed me, that Mr. Neeraj Sharma has withdrawn that amount through withdrawal receipt and he also requested bank for closure of the firm's bank account.

Due to such kind of unethical behavior by Mr. Neeraj Sharma, we face a lot of trouble. Mr. Neeraj had already left our firm in Nov. 2019 and we had asked him, n no. of times to discuss the closure of accounts but he is not responding properly (He calls us for meeting & remain engaged in some other call for 1-2 hours). He is also trying to threaten me by doing baseless complaints against me, to the institute.

You are please requested to look into the matter.”

8. Also, as part of the investigation u/s. 21 of the CWA Act, 1959, a letter Ref. No. G/DD/CA(93)/01/12/2021 dated 16th December 2021 was sent to GLS Films Industries (P) Ltd. i.e., the client company of M/s. SRPN & Associates with a request to provide the following information relating to the matter within 07 (seven) days of the date of service of the letter.

- Who were the cost auditors of GLS Films Industries (P) Ltd. for the FY 2018-2019?
- What was the cost audit fee of the cost auditor for the FY 2018-19?
- Who was the signing partner of the cost audit report for FY 2018-19?
- Did the company make payment of cost audit fee for the FY 2018-19 to the cost auditor?
- If the answer to the above is in affirmative, to whom such fee was paid?
- To provide money receipt/acknowledgement received by your company from the cost auditor for the cost audit fee paid for FY 2018-19.
- Who had raised the bill for cost audit for the FY 2018-19.





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9. GLS Films Industries Pvt. Ltd. vide letter dated 8th January 2022 submitted its response which is reproduced in verbatim below:

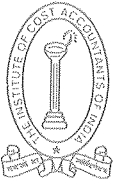
“Reply :- Ref. No.: G/DD/CA(93)/01/12/2021 dated 16th December 2021.

Dear Sir,

Please find below point wise reply and supporting documents for your verification.:

1. Who were the Cost auditors of your company for the FY 2018-19?
Rep: SRPN & Associates (Cost Accountants)
2. What was the cost audit fee of the cost auditor for the FY 2018-19?
Rep: Rupees 150,000 (Rupees One Lakh Fifty Thousand Only) Exclusive of GST & out of pocket expenses.
3. Who was the signing partner of the cost audit report for FY 2018-19?
Rep: CMA Sachin Jain (M. No. 42100)
4. Did your company make payment of cost audit fee for the FY 2018-19?
Rep: Yes (Bank Statement attached for your verification)
5. If your answer to the above is in affirmative, to whom such fee was paid?
Rep: After submission of Cost Audit Report to the Ministry of Corporate affairs, payment has been transferred to the SRPN & Associates Bank Accounts.
6. Please provide money receipt/acknowledgement received by your company from the cost auditor for the cost audit fee paid for FY 2018-19?
Rep: Telephonic Confirmation received from the Cost Auditor (CMA Sachin Jain)
7. Who had raised the bill for cost audit for the FY 2018-19?





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Rep: We had received Valid Tax Invoice against Professional Fee for cost Audit of FY 2018-19 by SRPN & Associates with Signature of Signing Cost Auditor Mr. CMA Sachin Jain (Invoice attached).

I hope you will get proper reply of all above queries.

For GLS Films Industries Pvt. Ltd.

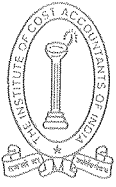
Director”

Findings

10. On perusal of the complaint dated 21st July 2020 of the complainant, it is observed that the complaint of the complainant was basically on three counts, namely:

- i. The appointment for cost audit was in firm's name but the bill was raised in personal name and the client accepted so – As regards the first allegation, the act of the respondent as alleged by the complainant is an internal matter of the firm and the nature of arrangement between the cost auditor and the client i.e. GLS Films Industries Private Ltd. However, documents on record show that no bill for conducting cost audit of GLS Films Industries Private Ltd. for the financial year 2018-19 was raised in the personal name of any person.
- ii. The respondent called on the bank and he had used abusive language against the complainant and also denied that the former knew him i.e. the complainant. – There is nothing on record to prove this allegation. There is no such complaint made by the Bank either against the respondent.
- iii. The respondent took all documents related to the firm without information and till date the complainant has been following up to share the details. – There is nothing on record to prove this allegation. Otherwise also, this does not attract any of the clauses of The First Schedule and the Second Schedule of the Cost and Works Accountants Act, 1959.

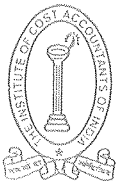




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11. On perusal of the annexure submitted by GLS Films Industries Pvt. Ltd. along with its letter dated 8th January 2022 in response to letter Ref. No. G/DD/CA(93)/01/12/2021 dated 16th December 2021 of the Disciplinary Directorate, it is apparent that:
- The payment was made by the company from its HDFC Bank Account No. 50200029606602, Gurgaon Branch to M/s. SRPN & Associates i.e., to the firm and not to any individual as has been alleged by the complainant.
 - This is reflected in the Bank Statement of the company whereby it is clear that payment of Rs. 165,750/- was made by cheque which got debited from the company's Bank Account on 18th January 2021.
 - Invoice No. SRPN/001/20-21 dated 1st September 2020 was raised by the firm, M/s. SRPN & Associates and not in the name of the respondent as has been alleged by the complainant.
12. On a careful perusal of the complaint of the complainant, the written statement of the respondent and the documents on record, it may be concluded that the allegations made by the complainant are unconfirmed, unsubstantiated and does not have the legs to stand on. The complainant has not been able to cite any cogent evidence in support of his complaint. Even otherwise also, none of the allegations complained of by the complainant attracts any of the clauses of The First Schedule and the Second Schedule of the Cost and Works Accountants Act, 1959.
13. This complaint was placed before the Board for closure at its 38th meeting held on 16th February 2022. The Board after perusing the complaint of the complainant and the written statement of the respondent, directed Director (Discipline) to further investigate the matter in terms of Rule 9(3)(b) of the Cost and Works Accountants (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007. Director (Discipline) was directed to communicate to the complainant to provide cogent



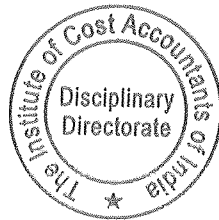


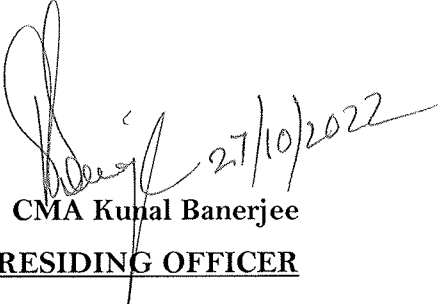
evidence from the complainant on the allegations leveled in his complaint dated 21st July 2020 against the respondent.

14. Accordingly, by a letter Ref. No. G/DD/Com-CA(93)/(M-35569)4/02/2022 dated 24th February 2022, the complainant was requested to provide cogent evidence on the allegations leveled by the complainant. The complainant, by an email dated 5th March 2022, received by the Disciplinary Directorate at or about 4.27 PM maintained his stand that the respondent had received the money in his personal account. This, statement of the complainant, however, is untrue as revealed from the bank statement of GLS Films Industries Pvt. Ltd.

Order

15. From the foregoing, it is clearly established that the complainant has not been able to make out a case in his favour and the Board unanimously proceeds to drop the proceedings against the respondent.
16. The complaint stands disposed of in accordance with Rule 9(3) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.




27/10/2022
CMA Kunal Banerjee
PRESIDING OFFICER