



**ORDER**

**Complaint No. Com/21-CA(17)/2014**

**In the matter of:**

**Shri Mukesh Kumar Gupta (M/12643).....Complainant**

**Vs.**

**Shri Raj Kiran Prasad (M/27727).....Respondent**

1. Shri Mukesh Kumar Gupta (bearing membership number 12643) filed a complaint dated 25<sup>th</sup> August 2014 in Form-I together with the prescribed complaint fee against Shri Raj Kiran Prasad, respondent, bearing membership number 27727 alleging that Shri Raj Kiran Prasad has been regularly circulating e-mails to various platforms throughout India via electronic media with malafide intention of defaming the image of the profession, members thereof, Institute, Regional Councils and Chapters, the subject and content of which are derogatory and present the Institute, Council Members, Office Bearers, Regional Council, Chapter, all professional members and student of the Institute in bad light as well as raising doubts regarding integrity of the entire Council, insulting Office Bearers at public platform and misleading members.
2. The Disciplinary Directorate having scrutinized the complaint and finding the same in order and on being satisfied that it is a fit case to be dealt 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, proceeded to register the complaint, vide Complaint No. Com/21-CA(16)/2014.
3. It has been alleged by the complainant that the respondent has been sending many more derogatory mails containing un-parliamentary and abusive language for entire councils, members and office bearers.



4. The subject/content of some of the e-mails sent by Shri Raj Kiran Prasad, respondent is as under:

a) E-mail dated 5.08.14 – “National / regional Advisory Committee – Loot ki Sarkari Chhoot”. (CMAs referred to as Certified Moral Less Accountants).

b) E-mail dated 21.08.14 raising doubts on the integrity of the entire Council at a public forum.

c) E-mail dated 30.07.14 insulting Office Bearers of the Institute at public platform.  
In many of these mails, copies have been marked to some of the members of Council for the term 2011-2015.

5. A copy of the complaint filed by Shri Mukesh Kumar Gupta, complainant was sent to the respondent under the cover of letter Ref No. G/DD(M-27727)/Com-C-17/1/9/2014 dated 15<sup>th</sup> September 2014 by the Disciplinary Directorate pursuant to Rule 8(1) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 requesting him to send written statement in his defence within 21 days of service of the letter. The copy of the complaint which was sent by the Disciplinary Directorate to the respondent by speed post on 15<sup>th</sup> September 2014 at his professional address was returned undelivered to the Disciplinary Directorate. Again on 24<sup>th</sup> October 2014, the complaint was sent by the Disciplinary Directorate at the professional address of the respondent and on this occasion too, the same was returned undelivered.

6. Since both the letters sent by the Disciplinary Directorate to the professional address of the respondent have been returned undelivered, the Disciplinary Directorate vide letter No. G/DD(M-12643)/CA(17)/3/11/2014 dated 14<sup>th</sup> November 2014 requested the complainant to furnish the address of the respondent or to provide the name of any other person who may be able to furnish the respondent's address.

7. The Director (Discipline) on perusal of the complaint and on non-receipt of written statement from the respondent and documents relied upon in formulation of prima facie opinion, formed the prima facie opinion dated 18<sup>th</sup> November 2014, a copy of which was duly served on the complainant and the respondent in terms of Rule 18(2) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.





8. The Director (Discipline), by his e-mail dated 12<sup>th</sup> November 2014, attached the details of his residential and professional address obtained from some source and requested the respondent to provide his correct professional address at the earliest. On the same date, the respondent stated that both the addresses mentioned in the e-mail of the Director (Discipline) were correct. It was further stated by the respondent that the reason for non-delivery of the communication was not understood by him and he could not comment on the same.
9. A copy of the prima facie opinion dated 18<sup>th</sup> November 2014 was again sent to the respondent which he had received on 12<sup>th</sup> December 2014.
10. In his Written Statement dated 23<sup>rd</sup> December 2014, the Respondent contended as follows:
  - (a) In regard to his e-mail dated 5.08.14 dated 5.08.14 – “National / regional Advisory Committee – Loot ki Sarkari Chhoot”. (CMAs referred to as Certified Moral Less Accountants), the respondent contended that the “first of all mails” were initiated by him. He endorsed the underlying message of the mail very much required in the best interest of profession and “no one can stop anyone from doing this”. “Certified Moral Less Accountants” referred in the mail “was referring to an individual and it was based on his personal act and does not have any correlation / nexus with profession and other professionals are baseless.”
  - (b) Regarding e-mail dated 21.08.14 raising doubts on the integrity of the entire Council at a public forum, the respondent stated that office bearers are elected members of the Institute. They are responsible for safeguarding the interest of profession and professionals. They are very much questionable and accountable to members in public forum as well. The respondent further stated that the facts and figures say a lot about their performance in last 60 years.
  - (c) Regarding e-mail dated 30.07.14 insulting Office Bearers of the Institute at public platform, the respondent stated that the office bearers of the Institute are elected members who are responsible for safe guarding the interest of the profession and professionals.
  - (d) All e-mails which have been sent by the respondent have been sent by exercising the rights of expression as a citizen of India. He further stated that it was against



individual or group of individuals on the basis of act performed by them in their individual capacity or as an office bearer of the Institute.

11. The respondent in the concluding portion of his written statement stated that in the light of what has been stated in Para 9(a) (b) (c) & (d) above, questing of disrespecting profession does not arise and so the charges framed under Clause (2) of Part IV of First Schedule to the CWA, Act, 1959 and Clause (1) of Part II of Second schedule to the CWA, Act, 1959 are illogical and baseless.
12. Both the complainant and the respondent were called for making oral submissions in terms of Rule 18 (6) of Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 at the Delhi office of the Institute on 6<sup>th</sup> January 2015 which was communicated to the parties vide letters No. G/DD(M-12643)/CA(17)/5/12/2014 & G/DD(M-27727)/Com-C-17/3/12/2014 dated 22<sup>nd</sup> December 2014. On this occasion, the letter which was again sent to the same professional address of the respondent, was received by the respondent
13. The respondent vide his e-mails dated 5th January 2015 informed the Disciplinary Directorate regretted his inability to attend the forthcoming meeting of the Disciplinary Committee scheduled to be held at the Delhi office of the Institute on 6<sup>th</sup> January 2015 and requested for postponement of the hearing to any suitable date in the week commencing from 12<sup>th</sup> January 2015.
14. Subsequently, another opportunity was provided to respondent for making oral submissions in terms of Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 and he was intimated of the date, time and place of hearing by the Disciplinary Directorate vide letter No. G/DD(M-27727)/CA(17)/4/01/2015 dated 28<sup>th</sup> January 2015 which was to be held at the Institute Headquarters at Kolkata on 6<sup>th</sup> February 2015.
15. The respondent by his e-mail dated 4<sup>th</sup> February 2015 conveyed his inability to appear before the Disciplinary Committee stating his prior professional engagement and inadequate time given to him to arrange for travel tickets etc. He stated that he was a young practitioner and it was difficult to bear the cost associated with emergency travel. He also stated that his written statement dated 23<sup>rd</sup> December 2014 contained exclusive and point-by-point response to the points raised and he was very much ready to further provide clarification by being present in person before the Disciplinary Committee. He requested the meeting of the





Disciplinary Committee to be held at Delhi since he resides at Delhi-NCR for professional purposes and visits his native place at Kolkata only during vacations.

16. Accordingly, a letter No. G/DD(M-27727)/CA(17)/7/04/2015 dated 13<sup>th</sup> April 2015 was sent to the respondent by the Disciplinary Directorate requesting him to be present before the Disciplinary Committee on 27<sup>th</sup> April 2015 at the Delhi office of the Institute to make oral submissions, if any, in accordance with Sub-Rule (6) of Rule 18 of the said Rules. Also, a letter No. G/DD(M-12643)/CA(17)/9/4/2015 dated 13<sup>th</sup> April 2015 was sent to Shri Mukesh Kumar Gupta, complainant, who also absented himself from making oral submissions at the meetings of the Disciplinary Committee held on 6<sup>th</sup> January 2015 and 6<sup>th</sup> February 2015, requesting him to be present before the Disciplinary Committee on 27<sup>th</sup> April 2015 at the Delhi office to make oral submissions, if any, in accordance with Sub-Rule (6) of Rule 18 of the said Rules..
17. In the meeting held at Delhi on 27<sup>th</sup> April 2015, the complainant did not appear to make oral submission. Shri Raj Kiran Prasad, respondent appeared to make oral submissions in terms of Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007. As directed, the charges framed pursuant to Rule 18 (7) of the said rules were read out and the respondent was asked to make his submissions. The respondent once again endorsed the idea of – “Loot ki Sarkari Chhoot” and CMAs being referred to as Certified Moral Less Accountants, stating that the Institute’s financial resources were wasted by holding a meeting by Chandigarh Chapter of Cost Accountants at a five star hotel when the same could have been held in a budget hotel. He also stated that by ‘Loot’ he meant that he had objected to the wastage of scare financial resources by criticising the office bearers and had no malafide intention. Shri Alok Kumar, the then Government nominee on the Disciplinary Committee wanted to know, if the respondent still stood by his statement of Loot ki Sarkari Chhoot” to which he replied in the affirmative. Shri Rakesh Singh, Member asked the respondent what *locus standi* he had to cast aspersions on the office bearers of the Institute, to which the respondent stated that since he is a member of the Institute, he had a right to protect the interest of the Institute. He further stated that the complaint filed by Shri Mukesh Kumar Gupta was motivated and not in the interest of the profession and the mail sent by the former was intended only for the complainant though copies thereof have been marked to many Council Members including general members.



18. A questionnaire was given to the respondent which he filled in. The replies of the respondent to some of the questions asked, were as here under:

- i. On many occasions he writes mails, many a time endorsing the idea of the mail which is in the interest of the profession.
- ii. The content of his mails are based on true facts and figures which may be expressed in harsh words to achieve its objective. These mails were sometimes addressed to the Council members and President of this Institute, sometimes to the President of CII, FICCI etc.
- iii. When asked about the main purpose of writing mails in the public forum, he stated that such mails were to safeguard the profession from dishonest office bearers and to make the members of the Institute aware of the same.
- iv. When asked, if such kind of mails sent in public forum tarnishes the image of the Institute, members of the Council (Central/Region) and even general members, the respondent replied in negative and stated that such mails were written to the group whose members are the members of CMA family and they must know what is happening about the profession.
- v. When asked if he was aware of the CWA Act/Regulations, he replied that he was aware of the law and he has never acted nor will he ever act against the law or profession.

19. In an earlier meeting of the Disciplinary Committee held at Kolkata on 20<sup>th</sup> November 2015 and 19<sup>th</sup> March 2016, the Committee members noted that since the respondent has not pleaded guilty in the 20<sup>th</sup> meeting of the Disciplinary Committee held at Delhi on 27<sup>th</sup> April 2015, where he was called for making oral submissions in terms of Rule 18(6) of Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee shall call for examination of witnesses and production of documents in terms of Rule 18(9) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 on a date to be fixed by the Committee. The Committee members opined that a minimum of 5 (five) witnesses be called for examination of witnesses and production of documents, if any.

20. In this connection, based on e-mails sent to members of this Institute by the respondent, the following members were requested vide letter dated 7<sup>th</sup> April 2016 of the Disciplinary





Directorate to confirm if all or any of these e-mails have been received by them and also to produce any other document or material evidence in the matter:

- i. Shri Dinesh Chandra Bhattacharyya (M/8801)
- ii. Shri Santosh Pant (M/32283)
- iii. Shri Debasish Chattopadhyay (M/7754)
- iv. Shri Ranajit Ghosh (M/17388)
- v. Shri Subhasish Chakraborty (M/12119)
- vi. Shri Sham Wagh (M/5480)
- vii. Shri Sumit Goyal (M/17908)
- viii. Shri Pallab Bhattacharya (M/20372)
- ix. Shri Aseem Jain (M/18592)
- x. Shri Mukesh Kumar Gupta (M/12643)

Shri Aseem Jain by his letter dated 20<sup>th</sup> April 2016 submitted that he does not have the facility of preserving mails. Hence, he was unable to confirm the same. Shri Santosh Pant, also by his letter dated 20<sup>th</sup> April 2016 replied that he does not remember any such kind of mail received from any person even though he had searched his mail box but could not find any such mails. He further stated that since these were about one and a half year old mails, it was not possible for him to remember. Shri Mukesh Gupta, complainant, by his letter also dated 20<sup>th</sup> April 2016 confirmed that he had received e-mail from Shri Raj Kiran Prasad, Respondent under Group "CAMAP" [camap@yahoogroups.com](mailto:camap@yahoogroups.com) as the former is a member of the said group.

21. Since, other members did not respond to the earlier letter dated 7<sup>th</sup> April 2016 of the Disciplinary Directorate, another set of letters dated 4<sup>th</sup> May 2016 was sent by the Disciplinary Directorate to Shri Sumit Goyal, Shri Pallab Bhattacharya, Shri Sham Wagh, Shri Dinesh Chandra Bhattacharyya, Shri Ranajit Ghosh, Shri Subhasish Chakraborty and Shri Debasish Chattopadhyay.
22. Shri Pallab Bhattacharya, by his letter dated 6<sup>th</sup> May 2016 stated that he has received a number of mails, some of which were not important to him. He has also deleted many mails even without going into details, which he felt was unnecessary, unimportant and which was one of the causes of blockage of his mail box. Hence, he was unable to confirm whether he has received all or any of the mails of Shri Raj Kiran Prasad. Shri Dinesh Chandra Bhattacharyya, by his e-mail dated 11<sup>th</sup> May 2016 stated that the e-mails as mentioned in



the letter of the respondent were perhaps sent about two years back. Those e-mails were not available at present in his "Inbox". Hence, he could not remember whether those were sent to him or read by him. However, from the documents that were sent to him, he stated that it appears that two mails were sent to him. Another member by the name of Shri Sham Wagh by his letter dated 17<sup>th</sup> May 2016 (perhaps inadvertently stated as 17<sup>th</sup> Mar in his letter) stated that he was unable to comment on the issue as he did not have record of e-mails of relevant period.

23. Both the complainant and the respondent were informed vide letter 5<sup>th</sup> May 2016 to produce witnesses in support of their contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 at a meeting of the Disciplinary Committee held at Kolkata on 20<sup>th</sup> May 2016. However, none of them attended the hearing or provided any witness.
24. The Committee members decided that a final opportunity be given to the complainant as well as to the respondent for examination of witnesses and production of documents in terms of Rule 18(9) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 at the next meeting of the Committee to be held at Delhi. Accordingly letters No. G/DD(M-27727)/CA(17)/2/06/2016 and G/DD(M-12643)/CA(17)/3/06/2016 both dated 17<sup>th</sup> June 2016 were sent to the parties requesting them to produce witnesses in support of their contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the said Rules. In this meeting too, which was held at the Delhi office of the Institute on 28<sup>th</sup> June 2016, none of the parties appeared for producing witness. The Committee members noted that the respondent is not complying with the provisions of Rule 18(9)/18(10) despite repeated requests.
25. In fact, sufficient opportunity was given to the respondent for producing witness but the respondent chose not to appear before the Committee. The Committee members therefore, directed the Secretary to issue a letter to the respondent asking him to be present in the next meeting of the Committee to enable him an opportunity to be heard in terms of Rule 19(1) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 before any order is passed under sub-section (3) of Section 21B of the Cost and Works Accountants Act, 1959.





26. Accordingly, a letter No. G/DD/(M-27727)/CA(17)/5/12/2016 dated 15<sup>th</sup> December 2016 was sent to the respondent requesting him to be present on 23<sup>rd</sup> December 2016 at the Institute Headquarters at Kolkata for being heard in terms of Rule 19(1) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 before passing any order under sub-section (3) of Section 21B of the CWA Act, 1959. A scanned copy of the said notice was e-mailed to the respondent on 16<sup>th</sup> December 2016 who, by his e-mail dated 19<sup>th</sup> December 2016, expressed his inability to attend the hearing since he was at Delhi during that time and getting railway reservations at such a short period of time is difficult. He had requested the Disciplinary Committee to allow him to be present through electronic means from NIRC office, institutional area, Lodi Road, New Delhi on the scheduled date and time. As the provisions of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 do not provide for attendance or appearance by way of video conferencing, this request of the respondent was not acceded to.

27. Findings:- From the facts above, it is observed that –

- (i) The respondent has been evading making oral submissions in terms of Rule 18(6) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 and had deposed before the Disciplinary Committee on the third occasion i.e., on 27<sup>th</sup> April 2015 at Delhi after failing to appear before the Committee on 6<sup>th</sup> January 2015 and 6<sup>th</sup> February 2015.
- (ii) Similarly he has not been appearing for producing witness in terms of Rule 18(9) / 18(10) and had failed on two counts i.e., on 28<sup>th</sup> June 2016 and 23<sup>rd</sup> December 2016 at Delhi and Kolkata respectively.
- (iii) The respondent is in the habit of regularly circulating emails to various platforms through electronic media throughout India with the intention of defaming the image of the profession, Institute, members thereof, Regional Councils and Chapters, the subject and content of which are derogatory and present the Institute, Council Members, Office Bearers, Regional Council, Chapter in poor light.
- (iv) E-mail dated 5.08.14 – “National / Regional Advisory Committee – Loot ki Sarkari Chhoot”. In this e-mail, the Cost & Management Accountants (CMAs) have been referred to as ‘Certified Moral Less Accountants’. This remark about the Cost & Management accountant fraternity in general is extremely derogatory and offensive.



**THE INSTITUTE OF  
COST ACCOUNTANTS OF INDIA**

(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)

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- (v) In this e-mail of 21.08.14 sent to members at large including some of the members of the Central & Regional Council for the term 2011-2015, doubts on the loyalty and dedication of the entire Council at a public forum.
- (vi) In the e-mail of 30.07.14 addressed to a member with copies marked to "GROUP CAMAP", Office Bearers of the Institute have been insulted at public platform.
- (vii) It is important to note that the respondent during the course of making oral submissions in terms of Rule 18(6) of the Rules on 27<sup>th</sup> April 2015 stuck to his stand of calling the CMA fraternity as 'Certified Moral Less Accountants' and showed no repentance. In fact, the respondent stated that 'Loot ki Sarkari Chhoot' was quite appropriate in the circumstances while describing the act of organizing a meet on CARR-2014 in a five star hotel by Chandigarh Chapter of Cost Accountants as this led to wastage of Institute's resources which could have been done in a Budget Hotel. In his submissions of 27<sup>th</sup> April 2015, he also stated that no one has the right to use his position to use the scarce financial resources of the Institute which are hard earned money of poor students and their parents and membership fees.
- (viii) It appears that there are reasons to believe the content of the above mentioned e-mails were such to cause displeasure or annoyance to the office bearers on whom aspersions have been cast in public platform. Had he wanted to offer suggestions to the office bearers of Chandigarh Chapter, he could have sent them e-mails without marking copies of the same to the members. Moreover, sending bulk mails on public platform with a view to maligning the image of all office bearers was surely not the right thing to do.
- (ix) The Committee though finds logic in the statement of the respondent that the Meet on CARR-2014 held at a five star hotel in Chandigarh could have been done in a Budget hotel and this may have led to wastage of scarce financial resources of the Institute which mainly come from students / their parents and members' subscription.

28. The respondent was given final opportunity to be present before the Disciplinary Committee and he appeared at the Delhi office of the Institute on 18<sup>th</sup> January 2017 and apologized for his conduct and incident and gave an undertaking to refrain from doing anything in future which would tarnish the image of the Institute and the profession.





**THE INSTITUTE OF  
COST ACCOUNTANTS OF INDIA**

(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)

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29. The Disciplinary Committee noted that although the respondent had commented about CMAs at large by referring them as 'Certified Moral Less Accountants' and expressed doubts on the loyalty and dedication of the entire Council at a public forum, at the same time the respondent cared for protecting the scarce financial resources of the Institute by being critical of the decision to hold the meet on CARR-2014 at a Budget hotel instead of a five star hotel.

30. The Committee decides to caution the respondent to refrain from using un-parliamentary language in future and the case against him is closed.

7<sup>th</sup> April 2017

(Manas Kumar Thakur)  
Presiding Officer, Disciplinary Committee