



**The Institute of Cost Accountants of India**

**Board of Discipline u/s 21A of The Cost Accountants Act, 1959**

**Final order number: ICMAI/BOD/2025/28**

Complaint number	Com-21/CA(156)/2024
In the matter of	CMA Rajubhai Kantilal Patel (M/14115) [Complainant] Vs. M/s N D Birla & Co. (FRN/000028) [Respondent]
Date of Hearing	As per records and order sheet
Date of order	31 <sup>st</sup> March, 2026

**CORAM:**

1	Shri P.K. Pujari, IAS (Retd)	Presiding Officer
2	CMA (Dr.) Ashish Thatte	Member

**PRESENT**

1	CMA(Dr) Hemant Kumar Sindhwani	Director (Discipline)
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**Brief of the Case: -**

1. The Disciplinary Directorate is in receipt of a complaint in Form I dated 26<sup>th</sup> December 2024 in triplicate together with the prescribed complaint fee of Rs 2950/- (inclusive of GST) from CMA Rajubhai Kantilal Patel (hereinafter referred to as the “complainant”), against M/s N D Birla & Co. (hereinafter referred to as the “respondent”) bearing firm reference number 000028, containing certain allegations against the respondent falling under various provisions of the Cost Accountants Act, 1959.
2. The complaint consists of four pages, accompanied by annexure. The Form I is reproduced below in verbatim:

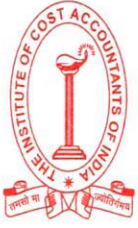


FORM I

[See sub-rule (1) of Rule 3]

1.	Name of the Complaint: (With membership number, if member of *Institute of Cost Accountants of India)	RAJUBHAI KANTILAL PATEL M-14115
2.	Name of the member/firm against whom complaint is being made: (With membership number/registration number of the firm, if known)	ND BIRLA & Co. FRN-000028
3.	Latest address of the complaint for communication	314 PHOENIX COMPLEX NR SURAJ PLAZA SAYAJIGUNJ VADODARA 390020
4.	Last available professional address of the member or the firm against whom the complaints is made	A-3, Nirant Apartment, Opp: Townhall, Near Karnavati Hospital, Ellis Bridge, AHMEDABAD 380006 M-9427620906
5.	Particulars of allegation(s), serially numbered together with corresponding clause/part of the relevant Schedule (s), or  Particulars of allegation(s) serially numbered together with clause/part of the relevant Schedule(s) under which the alleged acts commission or omission or both would fall.	1. M/s N D BIRLA & CO did not make mandatory communication to my firm as previous cost auditor before accepting position of Cost Auditor for FY 2017-18. 2. M/s ND BIRLA & CO. did undercutting in fees Our fees- 108000 Respondent fees- 100000 3. There is violation of Part 1 clause 8 (8) accepts a position as cost accountant previously held by another cost accountant in practice without first communicating with him in writing





		4. Request to take suitable action for violation against defaulting firm to safeguard interest of profession.
6.	Particulars of evidence(s) adduced in support of the allegation(s) made	Snapshot showing appointment of cost auditor for 2017-18 FROM Audited Accounts copy of GSPL.
7.	Name(s) of person who have knowledge of the facts of the case.	Nil

- The above complaint was scrutinized and was registered in terms of Rule 5 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 and the same was proceeded with in the manner as prescribed in Chapter III of the Rules and was registered by the Disciplinary Directorate by giving a unique number, Complaint No. Com/21-CA(156)/2024.
- The complaint dated 26<sup>th</sup> December 2024, was duly forwarded to the respondent vide letter No. G/DD/Com-C-156/01/01/2025 dated 7<sup>th</sup> January 2025 calling upon the Respondent to submit a written statement in terms of Rule 8(3) of The Rules, 2007 within 21 days from the date of service of the letter under reference.
- The respondent, vide letter dated 27<sup>th</sup> January 2025 has sent his submitted his written defence statement containing of one page denying the allegations, which is reproduced below in verbatim:

**Quote**

Sub: Response to Complaint No. Com/21-CA(156)2024 by Shri Rajubhai Kantilal Patel (M-14115) against M/s N D Birla & Co. (FRN: 000028)

Dear Sir,

Response to the complaint filed by CMA Rajubhai Kantilal Patel regarding alleged professional misconduct for FY 2017-18, in receipt of your letter Ref No: Com/21-CA(156)2024 dated January 7, 2025 but received by us on 15<sup>th</sup> January 2025. I categorically deny all the allegations of professional misconduct as baseless and submit the following points:

- Time-Barred Complaint:** The complaint pertains to FY 2017-18 and has been raised nearly eight years later. Such delays render the complaint procedurally invalid and time-barred.
- Communication with previous Auditor:** Due communication was made with the previous auditor within 30 days of appointment in 2017; however, given the time elapsed, documentation is unavailable. Any lapse in the records is





unintentional.

3. **Fee Undercutting:** The fee accepted (₹100,000) was based on Scope of work and as prescribed by the Company at the time of Rotation of Cost Auditors. Moreover, the ICMAI's notification on fee undercutting [Ref: G/128/10/2022(3)] was issued on October 25, 2022, and cannot be applied retrospectively to FY 2017-18.
4. **Malicious Intent:** The complaint appears retaliatory, following our recent complaint against CMA Rajubhai Patel for fee undercutting in FY 2023-24 vide complaint no: Com/21-CA(151)/2024 This misuse of the disciplinary process highlights a personal vendetta. Such misuse of the disciplinary mechanism undermines the holiness of the profession and warrants appropriate scrutiny.
5. **Request for Dismissal:** Considering the following:
  - The time-barred nature of the complaint.
  - Lack of evidence supporting the allegations.
  - The apparent malicious intent of the complainant.

I respectfully request the Directorate to dismiss this baseless complaint and take appropriate action against the complainant for his malicious conduct. I reserve the right to appear and further submissions if any before the issuance of the final order. I assure you of my full cooperation.

Thanking you,  
Yours faithfully  
CMA Dinesh Birla (M-7907)  
Partner  
N D Birla & Co. (FRN 000028)  
Cost Accountant

**Unquote**

6. The written statement dated 27<sup>th</sup> January 2025 was forwarded to the complainant under the cover of letter No. G/DD/Com-CA(156)/02/02/2025 dated 04<sup>th</sup> September 2025 calling upon the complainant to submit a rejoinder in terms of sub-rule (4) of Rule 8 of The Rules, 2007.
7. The Complainant, vide letter dated 01<sup>st</sup> March 2025 submitted his Rejoinder containing of 2 pages, The rejoinder submitted by complainant is reproduced below in verbatim:

**Quote**

Sub: Rejoinder in case of Complaint No. -COM/21/ca-156/2024

Dear sir,

Pointwise reply is as per below:

Point No. 1

1. Time-Barred Complaint: The complaint pertains to FY 2017-18 and has been raised nearly eight years later. Such delays render the complaint procedurally invalid and time-barred.

Reply: As per MCA guidelines, records are to maintained for 8 years computing which the complaint is not time barred.

2. Communication with Previous Auditor. Due communication was made with the previous auditor within 30 days of appointment in 2017; however, given





the time elapsed, documentation is unavailable. Any lapse in the records is unintentional.

Reply: Respondent firm has agreed that due communication was made with the previous auditor within 30 days of appointment in 2017 which clearly deviates ICMAI Disciplinary clause (8) accepts a position as cost accountant previously held by another cost accountant in practice without first communicating with him in writing;

From ICMAI disciplinary clause, it is mandatory to inform previous auditor before taking position as cost accountant/auditor and not after that.

Hence the respondent firm himself has agreed that they have accepted position of accountant/auditor after taking appointment.

Also I have not received any communicator from respondent firm

3. Fee Undercutting: The fee accepted (₹1,00,000) was based on Scope of work and as prescribed by the Company at the time of Rotation of Cost Auditors. Moreover, the ICMAI's notification on fee undercutting [Ref: G/128/10/2022(3)] was issued on October 25, 2022, and cannot be applied retrospectively to FY 2017-18.

Reply: Circular refereed under Ref: G/128/10/2022(3) does not call for undercutting and is wrongly quoted by respondent firm. As per original complaint it is very much clear that Respondent has done under cutting in fees.

4. Malicious Intent: The complaint appears retaliatory, following our recent complaint against CMA Rajubhai Patel for fee undercutting in FY 2023-24 vide complaint no: Com/21-CA(151)/2024 This misuse of the disciplinary process highlights a personal vendetta. Such misuse of the disciplinary mechanism undermines the holiness of the profession and warrants appropriate scrutiny

Reply: it is assumption of Respondent firm.

5. Request for Dismissal: Considering the following:

- The time-barred nature of the complaint.
- Lack of evidence supporting the allegations.
- The apparent malicious intent of the complainant.

Reply: As stated in Point no 1, it is not time barred

Evidence of undercutting are duly provided.

So far as malicious intent is considered, it is pure assumption of Respondent firm.

Yours sincerely

CMA RAJUBHAI KANTILAL PATEL

**Unquote**

**8. Comments of the Disciplinary Directorate**

- a) In the present matter, the allegations levelled against the Respondent pertain to (i) non-compliance with the requirement of prior communication with the previous Cost Accountant before accepting the assignment for the Financial Year 2017-18, and (ii) alleged undercutting of professional fees, in contravention of the applicable





professional and ethical requirements.

- b) The Respondent, in his Written Statement dated 27<sup>th</sup> January, 2025, inter alia, contended that the complaint is barred by limitation, having been filed after a lapse of nearly eight years from the relevant financial year. It has been submitted that communication with the previous Cost Accountant was duly made within 30 days of appointment; however, supporting documentary evidence is not available due to the efflux of time. The Respondent further submitted that the professional fees were determined based on the scope of work and commercial considerations, and that the Circular relating to fee undercutting is prospective in nature and not applicable to the assignment in question. The Respondent has also alleged mala fide intent on the part of the Complainant.
- c) The Complainant, in his Rejoinder dated 1<sup>st</sup> March, 2025, submitted that the complaint is not time-barred, placing reliance on general record retention guidelines. It has been further contended that no communication was ever received from the Respondent prior to acceptance of the assignment. With regard to the allegation of fee undercutting, the Complainant submitted that the Respondent has misinterpreted Circular Ref. No. G/128/10/2022(3) and reiterated that undercutting of fees had indeed taken place.
- d) For the Sake of clarity, the provision contained in Rule 12 of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 has been reproduced herebelow:

Where the Director is satisfied that there would be difficulty in securing proper evidence of the alleged misconduct, or that the member or firm against whom the information has been received or the complaint has been filed, would find it difficult to lead evidence to defend himself or itself. as the case may be, on account of the time lag, or that changes have taken place rendering the inquiry procedurally inconvenient or difficult, he may refuse to entertain a complaint or information in respect of any misconduct made more than **seven years** after the same was alleged to have been committed and submit the same to the Board of Discipline for taking decision on it under sub-section (4) of section 21A of the Act.

- e) From the perusal of Rule 12 of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, it is observed that complaints relating to misconduct alleged to have been committed more than seven years prior cannot be entertained. This is to ensure





# ICMAI THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

भारतीय लागत लेखाकार संस्थान  
Statutory Body under an Act of Parliament  
(Under the jurisdiction of Ministry of Corporate Affairs)

**Headquarters:**  
CMA Bhawan, 3 Institutional Area,  
Lodhi Road, New Delhi-110003

**Phone :** +91-11-24622156-57-58

**Website :** www.icmai.in

procedural fairness and the availability of proper evidence for a just inquiry.

- f) In the present case, it is observed that:
- The alleged misconduct pertains to the Financial Year 2017–18;
  - The appointment of the Respondent as Cost Auditor was made on 11<sup>th</sup> August, 2017;
  - The complaint has been filed on 26<sup>th</sup> December, 2024;
  - Accordingly, the complaint has been filed after a lapse of approximately seven years and four months from the date of the alleged misconduct.
- g) In view of the above, and considering the Respondent's submission regarding non-availability of records due to passage of time, it is evident that the allegation relating to non-communication with the previous auditor is barred by limitation under Rule 12 of the Rules, 2007.
- h) It is noted that the Institute, vide Notification No. G/128/10/2022(3) dated 25<sup>th</sup> October, 2022, has prescribed the specific mode and format of such communication, including dispatch through Registered/Speed Post. The said notification is prospective in nature and was not in force during the relevant period (FY 2017-18).
- i) Consequently, even on merits, the allegation relating to communication with previous auditor and undercutting of fee does not sustain.

## 9. Findings and order of Board of Discipline


- a) The Board has carefully considered the complaint, written statement, rejoinder, and the comments of the Disciplinary Directorate.
- b) The Board observes that the allegations relate to events of the Financial Year 2017–18, whereas the complaint has been filed in December 2024, i.e., after a lapse exceeding seven years. The complaint is, therefore, squarely hit by the provisions of Rule 12 of the Cost and Works Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
- c) Without prejudice to the foregoing, it is further observed that Circular Ref. No. G/128/10/2022(3), which prescribes the specific mode and format of communication, including dispatch through Registered/Speed Post along with a declaration regarding non-undercutting of fees, was issued on 25<sup>th</sup> October, 2022

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- and is prospective in nature. Since the alleged conduct pertains to the Financial Year 2017-18, the said Circular is not applicable to the facts of the present case.
- d) In the absence of any prescribed mode of communication during the relevant period, and considering that the Respondent averment that communication was initiated prior to acceptance of the assignment, the Board is of the view that the benefit of doubt may be extended to the Respondent. Accordingly, no contravention of the aforesaid Circular can be attributed to the Respondent. Consequently, on merits, the allegation does not sustain.
- e) Accordingly, the Board, in exercise of powers under Rule 9(3)(a) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, orders the closure of the matter, and inform the Complainant and the Respondent accordingly.
- f) The matter stands disposed of accordingly.

  
CMA (Dr.) Ashish Thatte,  
(Member)



  
Shri P.K. Pujari, IAS (Retd)  
(Presiding Officer)

Place: New Delhi

Date: 31<sup>st</sup> March 2026

**Distribution under Rule 15(3) of the Rule**

- 1) Director(Discipline), The Institute of Cost Accountants of India
- 2) Complainant, CMA Rajubhai Kantilal Patel (M/14115)
- 3) Respondent, M/s N D Birla & Co. (FRN/000028)