



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
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**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(26)/2015 –

Shri Prakash Anant Sevekari (M/5978)Complainant

Vs

Shri Neeraj Dhananjay Joshi (M/24118) Respondent

ORDER

1. A complaint dated 27th May 2015 in Form I was filed with prescribed application fee of Rs 2500/- 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 Prakash Anant Sevekari (hereinafter referred to as the 'Complainant') bearing membership number 5978) against Shri Neeraj Dhananjay Joshi (hereinafter referred to as the 'Respondent') bearing membership number 24118 alleging contravention of the provisions of the Cost and Works Accountants Act and Regulations. The contravention, according to the complainant, was on the following grounds:
 - i. Undertaking Research Projects during 2013-14 by WIRC in violation of the Cost and Works Accountants Act and Regulations.
 - ii. Spending a sum of Rs 124.62 lakhs by WIRC during 2013-14 Council/Council not backed by budgetary sanction.
 - iii. Sanctioning a loan of Rs 2 crores to Pune Chapter stated to be in 2012 for construction of a building which is not permitted in terms of the decision

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taken in 266th Council meeting dated 30th December 2010 read with Explanation to Regulation 114.

The complainant stated that the above misconduct falls under Clause (2), Part-IV, First Schedule and Clause (1) of Part-II of the Second Schedule to the Cost and Works Accountants Act, 1959. The complainant has along with his complaint enclosed an extract of copy of Annual report of the Institute for FY 2013-14 which contains certain qualifications made by the statutory auditor on the issues mentioned above by the complainant.

2. The complaint was registered by the Disciplinary Directorate after it was found to be in order and the same 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. A unique complaint number Com-21/CA(26)/2017 was allotted to the complaint.
3. The Complaint was registered by the Disciplinary Directorate and thereafter a copy thereof was sent to the respondent vide this Directorate's letter Ref No. G/DD/Com-CA(26)/1/06/2015 dated 11th June 2015 requesting for his response in the matter by way of a written statement within 21 days from the date of receipt of the complaint.
4. The respondent, by his letter dated 30th June 2015 prayed for grant of additional time for providing response to the complaint filed by the complainant. Accordingly, additional period of one month was granted vide this Directorate's letter Ref No. G/DD/Com-CA(26)/2/07/2015 dated 6th July 2015. The respondent, in his written statement dated 1st August 2015 wanted to know if the complainant has paid the complaint fee of Rs 2500/- and if the same has been paid, the complaint could be entertained.
5. The respondent denying the allegations levelled by the complainant submitted *inter alia* as follows:
 - i. He is not guilty of any professional misconduct, let alone falling under First schedule Part-IV, clause (2) and Second Schedule, Part-II, Clause (1).
 - ii. Clause (2) of Part-IV of First Schedule stated that a member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if in the opinion of the Council he brings disrepute to the profession or the Institute

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as a result of his action whether or not related to his professional work. Since, the complaint has been filed by the complainant in his individual capacity, it cannot be considered as entertained under Clause (2) of Part-IV of First Schedule to the CWA Act, 1959. Here, the respondent contends that to bring any act of omission or commission within the purview of the above mentioned clause, "opinion of the Council....." is the essence.

- iii. In regard to allegation made by the complainant on violation of Clause (1) of Part-II of Second Schedule which states that a member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he contravenes any of the provisions of this Act or the regulations made there-under or guidelines issued by the Council, the respondent contends that the complainant has not brought out as to which particular provisions of the CWA Act/CWA Regulations made thereunder are contravened by the respondent.
- iv. Regarding undertaking research projects during 2013-14 by WIRC, the respondent contended that whatever research projects were undertaken, the same was carried out by Western India Regional Council (WIRC) and not by the respondent in his individual capacity. It was the decision of the "Executive Committee/Council" to undertake the research projects and not of individual members of the Executive Committee.
- v. The income and expenditure from such projects were also accounted for in the books of the WIRC and the WIRC had sent request letter to the Council for post-facto approval to such research projects which was specifically provided under the CWA Act/CWA Regulations.
- vi. Regarding spending a sum of Rs 124.62 lakhs by WIRC during FY 2013-14 without obtaining prior approval of the Regional Council/Council nor backed by budgetary provision, the respondent denied this allegation and re-affirms that spending a sum of Rs 124.62 lakhs by WIRC during FY 2013-14 was with the prior approval of the Regional Council/Council and was backed by Budgetary sanction.
- vii. It has also been contended by the respondent that there exists no guidelines of the Institute specifying the procedure for pre-approval of expenditure. Thus, pre-approved budget by the Headquarters was considered as the pre-approval for all expenses till the time they are within the sanctioned budget limit. All the



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- expenses, according to the respondent, were incurred in the interest of the profession.
- viii. Regarding the last allegation of the complainant of sanctioning a loan of Rs 2 crores to Pune Chapter stated to be in 2012 for construction of a building which is not permitted in terms of the decision taken in 266th Council meeting dated 30th December 2012 read with Explanation to Regulation 114, the respondent contends that it was the WIRC which had sanctioned loan of Rs 2 crore to Pune Chapter in the year 2012. It is not the respondent who enjoys such authority to sanction the loan and he has never sanctioned any loan in his individual capacity.
- ix. Also, the loan to Pune Chapter was given by WIRC during FY 2011-12 and no irregularity has been observed by the statutory auditors of the Institute for the years 2011-12, 2012-13. The statutory auditor who had conducted the audit for FY 2013-14 was the same as one who had conducted audit during FY 2011-12 & FY -13.
- x. Even during the course of internal audits conducted at WIRC, this point was never raised which has been raised by the statutory auditor only during FY 2013-14.
- xi. The complainant, according to the respondent, has not made any assertive statement as to how the sanctioning of loan by WIRC to Pune Chapter in the year 2012 was not permitted in terms of the decision taken in the 266th Council meeting dated 30th December 2010 read with Explanation to Regulation 114 of the CWA, regulations, 1959.
- xii. The respondent has also not understood as to how an ordinary member could get a copy of the minutes of the 266th meeting of the Council. Presuming that he has obtained such copy through the legal mode, he has to explain and substantiate the source from where he has obtained the copy in question.
- xiii. He was not aware of the decisions taken by the Council at its 266th meeting held on 30th December 2010. No such decision was ever circulated to the WIRC by the Headquarters to the best of his knowledge of the respondent. Such decision of the Council was also not in public domain.
- xiv. The respondent finally submits that the complainant has taken a "selective approach" while filing his complaint which was against junior most Cost

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Accountants with a view to harassing them as the complaint was without any substance.

- xv. The respondent reiterates that the misconduct complaint of by the complainant does not fall within Clause (2), Part-IV, First Schedule and Clause (1) of Part-II of the Second Schedule to the Cost and Works Accountants Act, 1959 and the latter has made a sweeping and wild allegation.
- xvi. The respondent in his written statement gave the name of some persons who have knowledge of the facts of the case. He has made a request to record the submission of those persons as witness at the time of hearing of the case. Some of these names include Hon'ble Minister Shri Venkaiah Naidu – Minister for Urban Development, Dr. Pawan Kumar Ruia, industrialist, Justice S.N. Dhingra, Retired High Court Judge, Shri M.A. Kuvadia, Regional director, Western Region, MCA, Shri B.N. Sahoo, General Manager SEBi etc etc. The respondent submitted that the complaint of the complainant be quashed and the proceedings against the respondent be dropped.
6. The written statement of the respondent was forwarded to the complainant vide letter Ref No. G/DD(M-5978)/Com-CA(26)/2/08/2015 dated 20th August 2015 who by his letter dated 8th September 2015 submitted a rejoinder, major points of which are as follows:
- a. The complaint has been filed against persons (another similar complaint has been filed by the same complainant against a Regional Council Member) who were then holding positions of authority in fiduciary capacity, viz, Shri Ashish Thatte, Chairman of WIRC and Shri Neeraj Joshi, Vice Chairman, WIRC.
- b. Both these persons were related and having personal interest.
- c. Since the respondent has mentioned that these decisions were taken in the Executive Committee and the Regional council, the complainant had called upon the Director (Discipline) to make available record of proceedings of relevant meetings of executive Committee and Regional Council.
- d. Payments were made to resource persons of the Mint project who were related parties of the respondent.

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- e. The complainant contended that the respondent should be fully aware about the rules and regulations etc relating to the said subject matter as he was an Elected Representative and an office bearer holding fiduciary position in WIRC.
- f. The complainant contends that the respondent, in regard to the spending of Rs 124.62 lakhs during FY 2013-14, had not denied that pre-approval for the expenditure incurred was not taken as was expressly required which itself was an admittance of violating relevant rules, regulations etc.
- g. In regard to loan of Rs 2 crores given to Pune Chapter, the complainant contends that as the law prohibits assets to be held in any other name than the name of the Institute, the entire process of purchase of land and contemplating construction on it is *void ab initio*. The respondent, being a member holding a fiduciary position of authority, he should be aware of it. Further, when considering and taking decision on this item, the Council Members who are ex-officio members of Regional Council being fully aware would have definitely mentioned this during discussions in Executive Committee and or Regional Council meeting and that should have prompted the respondent holding fiduciary position against taking such a decision.
- h. The complainant in his rejoinder states that he reserves the right to call the then Council Members as witness before the authority.
7. On perusal of the complaint of the complainant, the written statement of the respondent and the rejoinder of the complainant it is observed that :
- (i) In regard to the first allegation of the complainant viz, undertaking Research Projects during 2013-14 by WIRC, it may be mentioned that as per the audited financial statement of WIRC for the FY 2013-14, a sum of Rs 25 lakhs has been shown as earned and Rs 19.83 lakhs (net of Service Tax) has been expended towards SPMCIL Mint Project undertaken for the years 2011-12 and 2012-13. The project is stated to have been carried on since past several years which are not permitted under the CWA, Act 1959 and the CWA Regulations 1959. Being an educational institute, established in India with the objectives of control, supervision, regulation or encouragement of the profession of Accountancy is registered as Association of Persons u/s 12A of the Income Tax Act, 1961 and by virtue of the said registration, the Institute enjoys Income tax exemption

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through two separate provisions – one under Section 10(23A) and the other Section 11 read with Section 12A of the Act. The exemption is specifically available for pursuing the objects of the Institute for which it has been formed under special enactment which *inter alia* includes control, supervision, regulation or encouragement of the profession of Accountancy etc. The condition for claiming exemption under Section 10(23A) is that "the association or institution applies its income, or accumulates it for application, solely to the objects for which it is established". It is understood that the SPMCIL and other projects carried on by WIRC during the period 2006-07 till 2013-14 were awarded to WIRC by different Government entities such as the Department of Mint IG at Mumbai, Security printing press at New Delhi, IG Mint Kolkata, India Security press at Nashik, Security Printing Press at Hyderabad. These projects undertaken by WIRC were in the name of professional consulting assignments carried out under the aegis of WIRC of ICWAI (now ICAI) and were termed as "Applied Research" projects which were against monetary consideration received by WIRC.

- (ii) In regard to the second allegation of the complainant of spending a sum of Rs 124.62 lakhs by WIRC during 2013-14 Council/Council nor backed by budgetary sanction, the same has been mentioned by the statutory auditors in their audit report for FY 2013-14.
- (iii) In regard to the third allegation of the complainant, a letter Ref No. G/DD/WIRC/1/03/2016 dated 31st March 2016 was issued to the Jt. Director, WIRC with the following queries:

- Decision of the Executive Committee or any other authority of WIRC approving the grant of loan of Rs 2.00 crores to Pune Chapter of Cost Accountants with documentary evidence thereof.
- Whether the grant of such loan by WIRC is permitted under the CWA 1959/CWR 1959 and the rules framed thereunder.
- Has the loan been repaid to WIRC? Please produce documentary evidence.

8. The Jt. Director – Administration vide his letter Ref. No. RTI/WIRC/PUNE/04/2016 dated 11th April 2016 stated as follows:

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- i. Pune Chapter Building Loan was approved/sanction in the 268th meeting of the Council of Western India Region dated 27th June 2016 which was discussed under any other matter – Financial Assistance to Pune Chapter under the Chairmanship of Shri Vijay P. Joshi. (Copy of the minutes of the 268th meeting of WIRC has been enclosed).
 - ii. The Council unanimously approved the proposal submitted by Pune Chapter for a Bridge Loan/ Advance of Rs 200 lakhs to Pune Chapter. As per the CWA Act, it is not permitted.
 - iii. Loan of Rs 2.00 crore to Pune Chapter has been repaid by the Chapter with interest on 22nd September 2015 through NEFT to Bank of Baroda, WIRC-ICAI A/c.
9. On perusal of the Independent Auditor's Report for FY 2013-14, under the section "Basis for Qualified Opinion", the Auditors M/s K.S. Aiyar & Co., Chartered Accountants has clearly stated that since the Hon'ble High Court at Mumbai had issued an order of status quo on the construction of the building on the acquired land, the loan ought to have been refunded by WIRC to the Chapter. (Incidentally, this loan was duly repaid by the Chapter with interest on 22nd September 2015 through NEFT to Bank of Baroda, WIRC-ICAI A/c.

In this connection, it is also important to note the language of Explanation to Regulation 114 which stated as follows:

".....A regional Council so constituted shall at all times function subject to the control, supervision and direction of the Council and shall carry out such directions as may be issued by the Council from time to time."

Hence, there is no scope of the regional council giving any loan to the chapters. Also, a letter Ref. No. RTI/WIRC/PUNE LOAN/04/2016 dated 26th April 2016 written by the Jt. Director (Administration) to the Disciplinary Directorate states that "as per the available records of WIRC, no prior approval of the Central Council was obtained for granting loan to Pune Chapter".

10. As per Regulation 146 of the Cost and Works Accountants Regulations, 1959, the Council has the power to constitute the Chapters of Cost Accountants and for that purpose make Bye-laws shall provide *inter alia*, for conditions relating to

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finance. The Chapters shall at all times function subject to the control, supervision and direction of the Council through their Regional Councils concerned. As per Regulation 146A of the said Regulations, the Chapters are bound to carry out the directions of the Council. As per clause 16(1) of The Cost Accountants Chapter Bye-laws, the Managing Committee shall prepare a Quarterly/half-yearly/yearly budget, both for revenue expenses and capital expenses and place the same before the Finance Committee of the Council for approval. Any expenditure in excess of 10% of the approved budget shall be placed again before the Finance Committee of the Council. As per clause 16(2) of the said Bye-laws, the managing Committee shall meet all other revenue expenses and capital expenses in accordance with the Revenue budget and Capital budget of the Chapter duly approved by the Finance Committee of the council.

From the said Regulations and said Bye-laws, it is amply clear that the Chapters operate under the control, supervision and direction of the Council in all matters including Finance. There is no provision in the said Regulations or the Bye-laws by which the Regional Council may grant loan or financial assistance to any Chapter.

11. The respondent was a Regional Council member during the period 2011-15 and was present in the 268th meeting of the WIR Council when the decision regarding financial assistance to Pune Chapter was taken. He was also a member of WIR Council when research projects were undertaken by WIRC in violation of CWA Act, 1959/CWA, Regulations, 1959. However, there appears to be no dissent from his side when these matters were taken up in the Executive committee of the Western India Regional Council.
12. In the 27th meeting of the Disciplinary Committee held on 23rd December 2016, the Committee members perused through the complaint, the written response of the respondent and the rejoinder of the complainant and advised the Director (Discipline) to further investigate the matter in terms of Rule 9(2)(c) of the Rules. The Learned members of the Committee advised the Director (Discipline) to get copies of minutes of the Executive Committee of WIRC for the relevant period during which the respondent was Regional Council member for further discussion in the next meeting.
13. Accordingly, letter No. G/DD/WIRC/01/2017 dated 6th January 2017 was sent to the Jt. Director (Administration) of WIRC requesting him to send copies of the minutes of the Executive Committee of WIRC during the period 2007-11 & 2011-



15 to the Disciplinary Directorate. The Jt. Director (Administration), by a letter dated 20th January 2017, enclosed copies of minutes of the Executive Committee of the WIRC for the periods 2007-11 & 2011-15.

14. On perusal of the minutes of the meeting of the WIR Council dated 27th June 2012 it was observed that the matter has been discussed under Para 7 - Any other matter in clause (a) which is reproduced in verbatim:

"The request received from Pune Chapter for providing financial assistance, for construction of building, from WIRC, was discussed in the Excom. Held on 3rd June 2012, at Pune and it was decided to recommend the said proposal to WIR Council for its consideration....."

The Council unanimously approved the proposal submitted by Pune Chapter for a Bridge Loan/Advance of Rs 200 Lacs (Rupees Two hundred Lacs only) to Pune Chapter, as per the terms and conditions, same in line with the earlier financial assistance provided to Ahmedabad Chapter of Cost Accountants. It was decided the MOU between WIRC and Pune Chapter should be entered specifying the terms & conditions of the financial assistance."

15. This decision of the Council of WIR was taken under the Chairmanship of Shri Vijay P Joshi and the respondent happened to be a member of the Regional Council i.e., WIRC and was also present in the said meeting. No note of dissent was found to have been given by any of the members of the WIR Council present at the meeting. In the 29th meeting of the Disciplinary Committee held on 3rd March 2017, the Secretary of the Committee informed the Committee members that copies of minutes of Executive Committee have been received and on perusal of the same none of the Council members of Western India Region have been found to have given their dissent to the decision. The Committee members opined that since there was no dissent from any of the members of the Executive Committee who attended the meeting, letters to be issued to all the members of Executive Committee who were parties to the decision as to how such decision was taken.
16. Accordingly, letters dated 4th April 2017 were issued to the following persons who were members of Western India Regional Council during the period 2011-2015 to seek their views/clarification as to how such a decision of granting a loan of Rs 2.00 crore to Pune Chapter was taken at the 268th meeting of the Council of



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Western India Region held on 27th June 2012 in contravention of the Council's decision dated 30th December 2010:

- a) Shri Vijay P Joshi b) Shri Amit Apte c) Shri Sanjay Bhargave d) Shri Neeraj Joshi, respondent e) Shri Ashish Thatte, f) Shri Debasish Mitra g) Shri Shrenik Shah

17. However, as none of them responded to the letter, the Committee at its 31st meeting advised the Secretary to send a reminder to this effect. This was duly sent to all the above mentioned RCMs of WIRC. Replies have been received from (a) Shri Ashish Prakash Thatte, (b) Shri Neeraj Joshi, (c) Shri Vijay P. Joshi, (d) Shri Amit Apte and (e) Shri Sanjay Bhargave.

The content of the letters dated 28th April 2017 sent by Shri Ashish Thatte, Shri Vijay P. Joshi and the respondent were more or less the same. They contend that the decision of the Council was never communicated to them nor to WIRC any time before the decision was taken for grant of loan by WIR Council which decision was taken on 27th June 2012. The WIR administration also never brought to his/their knowledge any such decision of the Council taken in the 266th Council meeting dated 30th December 2010. Such decision was also not available in the public domain. The crux of the decision taken at the 266th meeting of the Council was on the subject of considering request of Ahmedabad Chapter of Cost Accountants for bridge loan and to avail bank loan against mortgage of proposed property. The discussion was regarding whether or not Chapter should go ahead for bank loan by mortgaging the property. They stated that they have been given to understand that

"The Council also noted that no Chapter or Regional Council can take loan on any account unless the same is routed through the Central Council as per the Act and the Regulations"

The Council discussions, according to them thus pertained to loan from outside parties. They mentioned the wordings of Regulation 114 whose last four lines read:

"A Regional Council so constituted shall at all times function subject to the control, supervision and direction of the Council and shall carry out such directions as may be issued by the Council from time to time". This explanation was amended vide Notification No CWR(1) 2010 dated 4th February 2011 and there was no "Directions of the Council" at any time either at the time of approving the Bridge loan/advance to Chapter or any such direction was issued by the Council even after disbursement of funds by WIRC.

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Moreover, the statutory auditors were fully aware of this fact but there was no 'qualified opinion' expressed by the auditors in their Audit Report for the year 2012-13. They continue to contend that it was very much surprising that qualified opinion was expressed by the auditors of the Institute in the next year's audit report on the basis of which the complaint was filed by the complainant. The accounts of Pune Chapter of Cost Accountants for the year 2012-13 discloses the fact of avilment of laon by the Chapter under Para 1 and Para 4 of Notes to Accounts signed by the Office Bearers of Pune Chapter.

18. Shri Amit apte, who was also served with a letter on the subject and an Ex-officio member of WIRC, by his letter dated 3rd June 2017 submitted that –

He joined WIR Council as an elected member in August 2011. On the date of the said meeting when the decision to sanction loan to Pune Chapter was taken, to his knowledge none of the attendees were aware of any decision of the Council. The said decision was never communicated at least to Shri Amit Apte either in his individual capacity or as WIR Council member. To his knowledge the decision of the Council was not even communicated to Western India Region office any time before the decision was taken for grant of loan by WIR Council in its meeting of 27th June, 2012. The WIR Administration also never brought to his/their knowledge any such decision of the Council in its 266th meeting dated 30th December, 2010. To his understanding the WIR Administration was also not aware of any such decision of the Council for them to bring it to the notice of the then Regional Council members. Such decision was not available in the Public Domain as well. After getting above referred letter he had also informally discussed with some of the Council Members (from the term 2007-11) to share what exactly transpired in the 266th meeting of the Council on 30th December 2010 and he has been informed the following.

The discussion in the Council was on the subject of considering request of Ahmedabad Chapter of Cost Accountants for bridge loan and to avail bank loan against mortgage of proposed property. The discussion was basically pertaining to whether the Chapter should go ahead for bank loan by mortgaging the property. There was no discussion on whether a Region can give loan to any chapter or otherwise.

As far as Explanation to Regulation 114 :- The last four lines read as under :

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"A Regional Council so constituted shall at all times function subject to the control, Supervision and direction of the Council and shall carry out such directions as may be issued by the Council from time to time." It seems that this explanation got amended vide notification No. CWR(1) 2010 dated 4th February, 2011. However it is humbly submitted that to his knowledge there was no "direction of the Council" at any point of time either at the time of approving the bridge loan / advance to Chapter or any such direction was issued by the Council even after disbursement of the funds by WIRC to the Chapter.

19. Shri Sanjay Bhargave, a former member of the Council, who was also served with a letter on the subject and an Ex-officio member of WIRC for the term 2011-15, by his letter dated 19th June 2017 submitted that –

He was a Central Council Member during 2007 to 2011 and therefore he was in the possession of a copy of the 266th meeting of the Council held on 30th December 2010. On perusal of the same, it can be seen that in the last para of the point No. 266.4 page 5 of the minutes it has been stated that "The Council gave approval to the above proposal as suggested by the President subject to the condition that the Chapter will have to make arrangement for the balance amount from its internal resources and it should not go for any further loan from any other source. The Council also noted that no Chapter or Regional Council can take loan on any account unless the same is routed through the Central Council as per the Act and Regulations."

The discussion in the Council was on the subject of considering request of Ahmedabad Chapter of Cost Accountants for bridge loan and to avail bank loan against mortgage of proposed property. Thus the discussion was basically pertaining to whether the Chapter should go ahead for bank loan by mortgaging the property. The minutes used the words that "The Council also noted that no Chapter or Regional Council can take loan on any account unless the same is routed through the Central Council as per the Act and Regulations." Thus it can be inferred that the point noted by the Council in para 266.4 of the Council Meeting dated 30th December 2010 pertains to availing loans from outside agencies like Banks etc. In the instant case based on the precedence and bonafide belief the loan was sanctioned to Pune Chapter. It is pertinent to note that the said facts were disclosed in the audited accounts of the Pune Chapter as well as WIRC of ICAI. The accounts were merged with the accounts of Headquarters also. He also mentioned about the last four lines of Explanation to Regulation 114 and stated that on the subject of availing loans from other chapters or regional council, no specific direction was given by the council to any Regional Council or Chapter. Therefore there cannot be any intention to overrule or contravene any or the instructions given by the

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council, in respect of sanctioning a bridge loan to chapter. He further submitted that the decision of the WIR Council was "unanimous", in the interest of the Institute. There was no financial loss to WIRC. Pune Chapter has already refunded bridge loan to WIRC along with service charges (interest) and the entire Council of WIR has acted in good faith. *He concluded by stating that since there is no contravention of any of the provisions with any malafide intention for granting bridge loan to chapter, it may be treated as procedural lapse and the matter may be resolved accordingly.*

From the foregoing it can be concluded that the Council decision taken at the 266th meeting mainly pertained to Ahmedabad Chapter and even if a decision on the subject that no Chapter or Regional Council can take loan on any account unless the same is routed through the Central Council as per the Act and Regulations was taken, the **same was not communicated to WIR Council or even to the WIR administration.**

20. It may be mentioned that Shri Debasish Mitra, RCM of WIRC has not responded to the letter sent by the Disciplinary Directorate and the letter addressed to Shrenik Shah has been returned undelivered.
21. In the 33rd meeting of the Disciplinary Committee held on 15th July 2017, the Committee deliberated on the issue and advised the Director (Discipline) to give his opinion as to whether the decisions were taken by the respondent in his individual capacity or it was a collective decision for being placed in the next meeting of the Disciplinary Committee.
22. In this regard a letter dated 7th September 2018 was sent to the the Chairman, WIRC requesting them to provide the Minutes of WIRC Council during the year 2012-13 and 2013-14. The WIRC wide its letter dated 24th September 2018 provided the copy of the desired minutes and after observing the same, it is apparent that the decision was taken collectively by the Council of the Western India Regional Council.
23. The instant matter came up for consideration before the Disciplinary Committee at its 49th meeting held on 10th and 11th February 2021 and the Committee perused the relevant details relating to the complaint made and opined that there appears to be a procedural irregularity in respect of certain matters. In regard to the allegation pertaining to sanctioning a loan of Rs 2.00 crores to Pune Chapter stated to be in 2012 for construction of a building, the Committee observed that though the same is prohibited in terms of the decision taken in



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266th Council meeting dated 30th December 2010, the loan has been repaid by Pune Chapter to WIRC. It was brought to the notice of the Committee that the respondent was not the Chairman when the loan of Rs 2.00 crore was sanctioned by WIRC though he was a Regional Council Member of the Western India Regional Council. (WIRC) when such loan was disbursed. The Committee directed the Director (Discipline) to find out how was such loan disbursed to Pune Chapter of Cost Accountants and if the payment was made through account payee cheque, who had signed the cheque and under whose authorization was the cheque signed.

24. In compliance with the directives of the Disciplinary Committee, a letter Ref No. G/DD/WIRC/A(M)/3/02/2021 dated 15th February 2021 written to the official concerned of the Western India Regional Council (WIRC) requesting to furnish the following information:

- On which date a loan of Rs 2.00 crores was given to Pune Chapter of Cost Accountants?
- Through which financial instrument was such loan disbursed to Pune Chapter of Cost Accountants?
- If the payment was made through account payee cheque, who had signed the cheque and under whose authorization was the cheque signed?
- To provide documentary evidence as to the above stated in Para (3).
- The name of the Chairman of WIRC at the relevant time when the decision to advance a loan of Rs 2.00 crore to Pune Chapter of Cost Accountants was taken by WIRC.

25. Shri K.P. Unnikrishnan, Advisor (MARF) vide letter Ref No. Pune Chapter loan-2011-12 dated 25th February 2021 replied as below:

- Two cheques of Rs 1.00 Cr each dated 14th July 2012 drawn in favour of Pune Chapter of Cost Accountants.
- Two cheques bearing numbers 000386 & 000387 of WIRC Bank of Baroda, SB A/c No. 27940100008414 as per MOU dated 14th July 2012.
- The above cheques were issued on the basis of MoU signed by both the parties on 14th July 2012 and also as per the decision taken in the 268th WIRC meeting of the WIR Council held on 27th June 2012. The cheques were signed by Shri Vijay P. Joshi. Chairman for the year 2011-12 and Shri Ashish P. Thatte, Hon. Secretary 2011-12.

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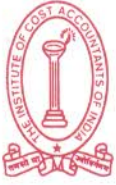
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The MOU was signed by Shri Vijay P. Joshi, Chairman

26. The matter was discussed and deliberated in the 50th meeting of the Disciplinary Committee held on 12th March 2012. The Committee after giving a thoughtful consideration to the instant complaint and after taking into consideration all the facts and circumstances of the complaint, written statement, rejoinder and statement of the Regional Council Members and officials of WIRC is of unanimous opinion that :

- i. The decision to advance a loan of Rs 2.00 crore to Pune Chapter was made on the basis of the decision taken in the 268th meeting of the WIR Council held on 27th June 2012 where Agenda item No. 7 (a) dealt with the subject of 'Financial assistance to Pune Chapter'. As per the extract of the said minutes of Agenda Item No. 7(a) it reads "The Council unanimously approved the proposal submitted by Pune Chapter for a Bridge Loan / Advance of Rs 200 Lacs (Rupees Two Hundred Lacs only) to Pune Chapter, as per the terms and conditions, same in line with the earlier financial assistance provided to Ahmedabad Chapter of Cost Accountants".
- ii. The loan of Rs 2.00 crore was advanced on the basis of a MOU dated 14th July 2012 between WIRC and Pune Chapter of Cost Accountants. Thus, the decision to advance loan to Pune Chapter was a collective decision and no individual decision was involved.
- iii. The respondent was not the Chairman of WIRC when the loan was disbursed.
- iv. There was no financial loss to WIRC. Pune Chapter has already refunded bridge loan to WIRC along with service charges (interest).
- v. At best there appears to be a procedural irregularity which has since been regularized.
- vi. Although the respondent was a party to the decision taken by the then WIR Council and proper procedure has not been followed and a qualification to this effect has been mentioned by K.S. Aiyar & Co., Chartered Accountants in the statutory audit report for the FY 2013-14, the respondent cannot be held to be guilty of professional or even other misconduct.
- vii. Similarly, regarding the other allegation of the complainant of undertaking research projects during the FY 2013-14 by WIRC, we are of the opinion that whatever research projects were carried out by the WIRC, the same was carried out by the WIR Council and not by the respondent in his individual capacity. It was the decision of the Executive Committee of WIRC to undertake research projects and not of any individual member of the Executive committee.

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viii. In regard to the allegation that an amount of Rs 124.60 lakhs was spent by WIRC during 2013-14 without obtaining the prior approval of the Regional Council/Council nor backed by budgetary sanction (this was mentioned by the statutory auditors in their Annual report for FY 2013-14) this too was a collective decision of the WIR Council and the respondent alone cannot be held responsible for the same.

27. The Committee strongly advises that henceforth the respondent should follow all procedures as laid down in the Cost & Works Accountants Act and the Cost and Works Accountants Regulations as well as the decisions of the Council taken from time to time and should refrain from being a party to any such decision which is not in accordance with the CWA Act, CWA Regulations and the rules framed there under and directions given by the Council from time to time.

28. The complaint accordingly stands disposed of and the complaint against Shri Neeraj Dhananjay Joshi, respondent be closed in terms of Rule 9(2)(c) of the Rules.

Biswarup Basu
Biswarup Basu 18.9.2024

PRESIDING OFFICER