

**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.
DISCIPLINARY DIRECTORATE

Telephones : 2252-1031/1034/1035
2252-1602/1492/1619
2252-7143/7373/2204
Mail id : discipline.director@icmai.in
Website: : www.icmai.in

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(46)/2017 –

Department of Heavy Enterprises.....Complainant

Vs

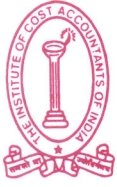
M/s BVR Associates (FRN 000453).....Respondent Firm

Facts

1. The Disciplinary Directorate was in receipt of a letter dated 11th January 2017 from the Under Secretary (Vig.), Department of Heavy Industry, Vigilance Section under the Ministry of Heavy Industries & Public Enterprises (hereinafter referred to as the "complainant") vide their File No. C-13011/22/2011-Vig (Vol. IV) enclosing therewith a copy of advice OM no. CONF/2708/11 dated 29th November 2016 of the Central Vigilance Commission (hereinafter referred to as the "CVC") referring the matter to The Institute of Cost Accountants of India for appropriate disciplinary action against M/s BVR & Associates, (hereinafter referred to as the "respondent firm") a Cost Accountant Firm, having Firm Registration No 000453.
2. The letter dated 11th January 2017 of the complainant referring the case to The Institute of Cost Accountants of India for appropriate disciplinary action against M/s BVR & Associates stated that "It has been observed that the above cost auditor have failed to carry out a proper audit of Tandur Unit Cement Corporation of India, as was required and have merely prepared their reports on the basis of DPRs and other information provided by the company. In this regard, a copy of the detailed report forwarded by Shri S.K. Singh, CVO, CCI to CVC, which has highlighted the lapses committed by the above statutory auditors is also enclosed herewith." It appears that the letter under reference of the Under Secretary (Vig.), Department of Heavy Industry inadvertently used the term "statutory auditors" instead of "Cost auditors".



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3. The complaint was registered by the Disciplinary Directorate under Rule 5 of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 (hereinafter referred to as "the Rules") 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(50)/2017 was allotted to the complaint.
4. The complaint hinges on the following issues of Cement Corporation of India (CCI):
 - I. Cement Corporation of India referred the Office Memorandum No. CONF/2708/11/320351 of CVC dated 18.7.2016 regarding Minutes of the Meeting of the Hon'ble CVC with the CVO/DHI and CVO/CCI on 5.7.2016
 - II. In order to verify the various issues raised by the Hon'ble CVC, Mr. S. K Singh, Chief Vigilance Officer visited the Tandur Cement Factory from 8.7.2016 to 12.7.2016. During further investigation, they have seen the relevant records/information relating to procurement of 15,000 MT of clinker by Tandur Cement Factory from M/s Penna Cement Industries. Besides, information was also obtained from Central Excise Department, Hyderabad and M/s. Penna Cement Industries Ltd. They have also extracted information regarding the trucks used in the transportation of the clinker purchased from M/s. Penna Cement Industries Ltd. from the websites of the transport departments of the Andhra Pradesh Government and Karnataka Government.
 - III. The relevant documents of Security, weigh bridge, Mechanical, Electrical, Production, Marketing, Packing Plant and Finance Departments of Tandur Unit Connected with the case were also scrutinized.
 - IV. The statements of CCI officials namely (i) Shri V.K. Pandey, GM (P&T), Corporate Office (the then GM of Tandur Unit) (ii) Ms. Saraswathi Devi, Addl. GM (Operations), Corporate Office (iii) Sh. G.K. Singh, Addl GM (Production), Tandur (iv) Sh. S.K. Dubey, Manager



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(Marketing), Tandur (v) Sh. Vipul Kumar, DGM (Mechanical), Tandur (vi) Sh. G. Basavaiah, Mechanical Engineer, Tandur (vii) Sh. Shankarlingam, Tester/Weigh Bridge Operator, Tandur (viii) Sh. S.K Singh, DGM(P&A)/Security), Tandur (ix) Sh. Chandershekhar Roy, Sr. Security Guard, Tandur and (x) Sh.S. Nagaraj, Sr. Security Supervisor. Tandur, were also recorded.

V. A flow diagram of Tandur Cement Factory, Which has a capacity of 3000 TPD (Ton Per Day), indicating various processes involved in manufacture of cement commencing from limestone received from Quarry to dispatch of cement in trucks/wagon loading was enclosed.

VI. Break-down of the Kiln of Tandur Unit –

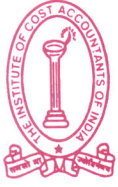
- (i) Whether the Kiln actually broke down on 27-03-2011, or not
- (ii) The actual production of Clinker in the last few days of March, 2011

It was alleged in the complaint dated 24-6-2011, that, Shri RP Tak, the then CMD, CCI in March/April, 2011 had approved the purchase of 15000 MT of clinker valued at Rs.3.0 crores by falsely cooking an alibi of meeting the MOU targets. During the investigation of the case, it was seen that the Production Department, Tandur Unit vide its note dated 28.3.2011 moved a proposal for an urgent purchase of 15000 MT of clinker on the ground that the kiln had broken down at about 4.30 p.m. on 27.3.2011 due to the sudden collapse of the brick lining. It was stated in the said note, that, there was no workplace clinker and clinker production had stopped. It was also stated in the said note that repairing of the kiln and making it operational may take considerable time and since workable Clinker to achieve targets was not available, therefore the said proposal to purchase clinker from nearby sources was being moved.

Subsequently, vide letter dated 1.2.2016, the Hon'ble CVC sought the date-wise stock position of clinker with CCI from 1.3.2011 along with details of receipt, daily consumption and closing balance. These details were submitted vide Annexure-II of their report dated 29.4.2016. In this regard, it was observed by the Hon'ble CVC, that the said chart showed, that, there was a production of 2000 MT, 500 MT, 3150 MT, 3150 MT and 3000 MT of

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clinker on 27.3.2011, 28.3.2011, 29.3.2011, 30.3.2011 and 31.3.2011 respectively. These figures of production of clinker from 27.3.2011 are contrary to the reasons recorded in the proposal dated 28.3.2011, wherein it was stated, that, the kiln had broken down on 27.3.2011 at 4.30 pm. And hence purchases had to be resorted to.

During their visit, they examined the records of the Tandur Unit with a view to ascertain that, as to whether the kiln had actually broken down or not. For this purpose, the following records were examined.

(a) Kiln maintenance records –

The Mechanical Department of Tandur Plant maintains a 'Mechanical Shift log book register' wherein the staff on duty records the details of running of the kiln section, coal mill, raw mill and kiln feed. The details include hours for which these equipments have been operated and specific observation, if any, for that shift. The names of staff members on duty are also recorded there.

In regard to the functioning of the Tandur Unit, it is learnt that the unit runs in 3 Shifts, 'A' is from 6 a.m to 2 p.m. Shift 'B' from 2 p.m to 10 p.m. and Shift 'C' from 10 p.m to 6 a.m

It was seen from the perusal of the above mentioned 'Mechanical Shift log book' that the kiln broke down several times during the month of March, 2011, April, 2011 and May, 2011. From the perusal of the Mechanical Shift log book, it was seen, that, the kiln broke down at 4.30 p.m. in 'B' Shift on 27.3.2011 but it was restarted on 29.3.2011 at 3.30 p.m. in 'B' Shift and was running by 7.00 p.m.

(b) Power Consumption records-

The Electrical Department of the Tandur Unit maintains daily Log Sheets for their 132 KV/6.6 KV Main Substation, wherein the electrical staff records the electrical parameters for the Raw Mill (RM-I & RM-II), Kiln section (PH-I & PH-II) and the

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Cement Mill (CM-I & CM-II). They record the current drawn in amperes at the intervals of 1 hour. The meter readings at the beginning of the day, i.e. "A" shift, and at the end of the day, i.e., end of "C" shift, are also recorded.

(c) Daily Kiln Log Sheets:

These are maintained by the Production Department, wherein they record the details of the Operation of the Kiln and the production of Clinker. The production of clinker as recorded in these sheets was found to be different from the production recorded in the stock register and a comparison of these two sets of figures of production clearly establish, that, the Tandur Unit was inflating its production of clinker in the month of March, 2011. The fact that the actual correct production of clinker is as recorded in these sheets was admitted by Shri GK Singh, Addl. GM (Production) in his statement dated 11.7.2016, wherein, in reply to Question No.9, he has given the figures of actual clinker production. The daily Kiln log sheets of March, 2011 (22 in number) also reflect the fact. That. The Kiln broke down on 6.3.2011, 17.3.2011 and 27.3.2011 and was restarted on 12.3.2011, 20.3.2011 and 29.3.2011 respectively.

As per the daily Kiln log sheet of 6.3.2011, the Kiln was not run in "B" and "C" shifts and the total clinker produced on 6.3.2011 is recorded at 676 MT. In a normal full day's running the kiln produces around 3000 MT. There are no log sheets for the period from 7.3.2011 to 11.3.2011. The next log sheet is dated 12.3.2011, wherein it is recorded, that, the kiln was heated up in "B" shift. The production for the day, i.e. 12.3.2011, is shown at 565 MT, which indicates that the kiln started functioning properly sometimes in the last shift, i.e. "C" shift. The daily kiln log sheet for 13.3.2011 shows full day's running of the kiln and a production of 3025 MT of clinker.

The daily kiln log sheets of 14.3.2011, 15.3.2011 and 16.3.2011 show full day's running of kiln and a production of 2893 MT, 3156 MT and 3004 MT of clinker respectively. The daily kiln log sheet of 17.3.2011 shows that the kiln was stopped in "C" shift because of a red spot, for brick lining works. The production of 17.3.2011 is shown at 1801 MT. There are no daily kiln log sheets for 18.3.2011, 19.3.2011 and

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20.3.2011. The log sheet of 21.3.2011 records that kiln was lighted and heated up in "A" shift around 6.30 am. The day's production is shown at 2220 MT. This stoppage and restarting matches the details in the mechanical shift log book and electrical daily log sheets.

The daily kiln log sheets of 22.3.2011, 23.3.2011, 24.3.2011, 25.3.2011 and 26.3.2011 show that kiln ran for the whole day and the production was of 3003 MT, 3018 MT, 2941 MT, 3029 MT and 2967 MT respectively.

The kiln log sheet of 27.3.2011 shows that kiln was running, upto 4 pm, and that, it was stopped at 4:30 pm in "B" shift due to a red spot in B Zone. The day's production is recorded at 1351 MT. There is no kiln log sheet for 28.3.2011. The kiln log sheet for 29.3.2011 shows that kiln was lighted up at 3:30 pm and that the kiln feed was started at 7:00 pm. The production is shown at 1000 MT. This stoppage and restarting corresponds to the events recorded in the Klin Shift Register and log-sheets for 132KV/6.6KV Main Sub-station of Tandur. The daily kiln log sheets of 30/3/2011 & 31/3/2011 show, that, the production of clinker in these two days was of 3181 MT & 3254 MT respectively.

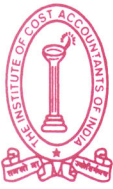
In view of the above facts, Mr. S K Singh, Chief Vigilance Officer was of the view, that, the Klin actually broke down on 27.3.2011 but it was restarted on 29.3.2011. However, the production as on 31.3.2011 was as per the details below:-

Date	Figures shown in books	Actual production
27.3.2011	2000	1351
28.3.2011	500	NIL
29.3.2011	3150	1000
30.3.2011	3150	3181
31.3.2011	3000	3254

The above mentioned findings are in consonance with the statement given by Shri V.K Pandey, GM (P&T), CCI, Corporate office wherein in Q.No.9, he stated that figures of

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production were adjusted in the fag end of March, 2011 to balance the despatches shown on 31.3.2011 in order to achieve the targets of 2010-11 set by the Corporate Office.

VII. Whether Clinker was actually supplied by M/s Penna Cement Industries Ltd. To CCI, Tandur Factory from 29.03.2011 to 31.05.2011

(a) Records examined:

In order to verify, that as to whether the quantity of 15000 MT of clinker was actually supplied or not, by M/s Penna Cement Industries Ltd. To CCI, Tandur Cement Factory, the following documents were scrutinized:-

(i) Original invoice cum delivery challans of M/s. Penna Cement Industries Ltd., Tandur. These invoices have details such as Invoice No., date, time of preparation, date and time of removal, name and brand of commodity, manner of transport, name and address of indenter/consignee, order number and date, ordered quantity, vehicle number, freight amount, base value, excise duty value, edu cess, freight, VAT/GST/CST, grand total. These invoices give complete details regarding the delivery of clinker to CCI, Tandur starting from 29/3/2011 to 31/5/2011.

(ii) CCI Security Main Gate Incoming Material Register –

This register is maintained by the Security Department of Tandur Cement Factory and is kept at main gate of the factory. In this register entries in respect of vehicles entering factory containing inputs i.e., raw materials are recorded by the security staff. This register contains date-wise and time wise information of the vehicles including in-time, vehicle number, DC number, name of the material, -Quantity as per Delivery Challan (DC), name of supplier, out-date, out time and the signatures of driver, cleaner & security guard.

(iii) Weigh Bridge register maintained by Production Department, Tandur.



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The truck after crossing the security gate comes to the weigh bridge, which is about 105 Meters from the security gate. Here, the gross weight of the truck is measured and recorded along with other details as recorded on the Delivery Challan. The details are recorded in the weigh bridge register and a computerized slip is also generated. Thereafter, the truck goes to the dump near the gypsum yard where clinker is unloaded. This is about 550 meters from the weigh bridge. After unloading the truck returns to the weigh bridge, where its tare weight is measured and recorded. Finally, the truck exits from the CCI main gate and its exit details are recorded at the security gate by the security staff in register.

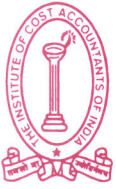
(b) Corrections in Annexure-XVII of our report dated 30.4.2015

A list containing details of clinker received from M/s Penna Cement Industries Ltd indicating date of receipt, LR number, Invoice number, Truck number, Invoice quantity in MT and received quantity in MT was submitted vide Annexure-XVII of our report dated 30.4.2015. When this list was checked with the original invoices of M/s Penna Cement Industries Ltd., the CCI weigh bridge register and CCI security register, some mistakes were noticed in respect of invoice numbers, truck numbers, invoice quantity and dates. The corrections have been numbered from S. No. 1 to S.No.52 and the supporting invoices showing the correct invoice number/quantity/truck number are also placed below in corrected list at the respective serial number. The dates in respect of S. No. 161 to 219 of the second lot of delivery, at page Nos.12, 13 & 14 of the list, are mentioned as 20.3.2011 to 23.3.2011; actually, the correct dates are 20.4.2011 to 24.4.2011

(c) Verification of truck registration numbers

After incorporating the corrections as mentioned in point (b) above, a corrected list containing the dates, invoice numbers, truck numbers, quantity, time of dispatch from Penna Cement, in and out time at CCI security gate and also at the CCI Weigh Bridge was prepared. This list was then sorted on the basis of truck numbers. The truck





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number in the list have been serially marked and the corresponding registration details print outs are also serially marked and placed below the list. In case of Trucks at Sl.Nos 8, 9A, 25 and 40 it is seen, that the truck number is wrongly mentioned on the invoice of M/s Penna Cement and in CCI Security Register, However, the CCI Weigh Bridge register appears to have recorded the correct truck number.

From the verification of the records indicated in 6(a), it was seen that the deliveries made by M/s Penna are reflected invoice wise in the security gate register and the weighbridge register of CCI, Tandur. There was some mismatch in the timings as noted in Penna invoices and as recorded in CCI gate register especially but it is difficult to draw any conclusion, as it is quite possible, that, the clocks used by various persons involved in the whole chain may not be fully synchronized and correct. From the verification and correlation of these register with the invoices of Penna, it appears that the clinker was supplied by M/s Penna Cement Industries Ltd to CCI, Tandur.

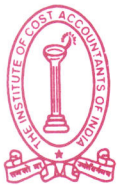
(d) Information called for from Central Excise Office, Tandur

By a letter dated 8.7.2016, the Central Excise Office, Tandur was requested to provide the details of daily excise clearance/payments made by M/s Penna Cement Industries Ltd., for the period 25.3.2011 to 5.6.2011 including the date, lot number, name of customers, item description, quantity and value.

The Commissioner of Custom, Central Excise & Service Tax, Hyderabad, by a letter dated 16.07.16, submitted the information called for. The details of month wise clearance of clinker by M/s Penna Cement Industries Ltd in the months of March, April, May and June of 2011 was provided by the Central Excise Office. As per the report provided by Central Excise Office it is seen that out of total clinker production of 2,53,834 MT in these 4 months, M/s Penna Cement Industries sold a quantity of 14,939.20 MT, which tallies with the records of CCI and the details provided by M/s Penna Cement Industries Ltd. Similarly, the duty paid (Rs.53, 76,289/-), ED Cess paid (Rs. 1, 07,526/-) and HS Cess paid (Rs.53,763/-) also tally with the details provided by M/s Penna Cement Industries Ltd.

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The Central Excise Office has also given the copies of ER-1 returns filed by M/s Penna Cement Industries Ltd for the months of March, April, May and June of 2011 from which it is seen that the information matches with the details in these ER-1 returns.

(e) Information provided by M/s Penna Cement Industries Ltd.

During the course of their visit they asked M/s Penna Cement Industries Ltd. to provide the details of clinker supplied to CCI. In response, they submitted a detailed chart giving information invoices wise. The details match with the details given by Central Excise and also the records of CCI. In view of all above, it was the opinion of Shri S K Singh, Chief Vigilance Officer that, the clinker was supplied to CCI by M/s Penna Cement Industries Ltd.

VIII. Inventory of raw material, clinker and cement

A statement showing date-wise stock position as per the CCI stock register of limestone, shale, laterite, iron-ore, raw meal, clinker, gypsum and cement with opening stock, purchase/production, consumption and closing stock was given for the month of March 2011.

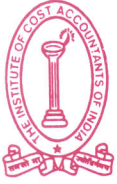
It is seen that the quantity of raw meal produced is equal to the total weight of the raw materials consumed. It is seen that on an average 1.58 MT of raw meal is consumed for producing 1 MT of clinker. The last page in this Annexure is an analysis of production of cement vis-à-vis consumption of clinker & gypsum. It is seen 1 MT of input materials gives rise to production of 1.002 MT to 1.005 MT of cement.

IX. System of maintaining records of clinker purchased from Penna separately

It was observed that CCI was maintaining records of clinker purchased from Penna cement industries Ltd. separately to the extent of separately recording its consumption also. In this regard, it has been clarified by the Tandur unit that the clinker purchased was stored near



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the gypsum stock pile and it was fed into cement mill hoppers with the help of the conveyor belt used for feeding gypsum (Annexure-XII). The quantity consumed was estimated on the basis of the estimate of the balance clinker lying there.

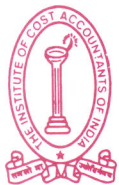
X. Despatches of Cement on 31.3.2011

The despatch capacity of the Tandur Plant is approximately 4000-5000 MT per day. However, as per the DPR of 31.3.2011, the despatch on 31.3.2011 was of 14281.10 MT, out of which 2559.00 MT was by road and 11,722.10 MT was by rail. In this regard, a chart was prepared at CCI, Tandur showing the despatches for the period from 20.3.2011 to 6.4.2011. In this chart, for the period from 20.3.2011 to 30.3.2011, sample despatches have been taken, while for 31.3.2011 all the despatches have been taken. It can be seen, that, in respect of the despatches of the period from 20.3.2011 to 30.3.2011, the goods have exited from CCI Security gate on the same date. However in respect of despatches of 31.3.2011, it can be seen that after S.No. 103, the goods are exiting from CCI Security gates in the period from 1.4.2011 upto 5.4.2011. In fact even the deliveries by rail shown on 31.3.2011 have taken place on 1.4.2011, 2.4.2011, 3.4.2011 & 4.4.2011. A study of the chart revealed that the despatches of the period 1.4.2011 to 4.4.2011 have been shown in the records of the company as the despatches of 31.3.2011.

- XI. Based on complaint of Cement Corporation of India (CCI) to the CVC, the latter conducted inquiry and questioned few employees of CCI who had a role to play. The CVC, in any case, was of of prima facie view that figures were manipulated and in order to ascertain the reasons for manipulating the figures, clarifications were sought from concerned officials. Ms.Saraswathi Devi, AGM (Operations), CCI Corporate office. She was explained that the production figures from 27th March to 31st March, 2011 showed peak cement production from 3450 MTs, 3105 MTs, 4160 MTs, 4500 MT, 4350 MT despite the fact there was a breakdown of Clinker production from 27.3.2011. The production figures came down in the first week of April, 2011 to about 300 -530 MTs and to 0 on 4-5th April despite purchasing Clinker from Penna cements Ltd. on emergency basis from 29.3.2011. She was asked to explain in detail the mismatching in production figures with supporting documents. She replied that to maintain continuity in production and to meet the yearly



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targets, clinker was procured from M/s Penna Cement and cement was manufactured. As per the DPRs there is no mismatch. However to meet the production targets, adjustment of figures were there

XII. *Ms. Saraswathi Devi, AGM (Operations) was also asked as a HOD (Production), Corporate Office what action she took on the inflated figures received for the period 27.3.11 to 31.3.11 from the Tandur unit on this account and to provide supporting documents. She replied that no supporting documents are available to be given. However, she had appraised the then CMD, the difficulties of the plant in adjustment of figures verbally many times. It was replied that this was necessary to meet the targets. **Ms. Saraswathi Devi admitted that despatch figure was higher as compared to capacity which was done to meet the targets, as per the directions of the then CMD.***

XIII. The CVC further questioned Shri G. Basavaiah, Mechanical Engineer of CCI asking him to provide details of dispatch of CCI Cement date-wise for the period 29.3.2011 to 6.4.2011 by Road and Rail separately along with details of truck numbers, wagon details/RRs and other supporting documents of CCI Tandur. Shri G. Basavaiah replied that the truck number and wagon details were submitted with sheet and 'RR's of wagons are maintained by Marketing dept. He admitted that actual dispatch has taken place between 31.3.2011 to 04.04.2011, but shown in the records as on 31.03.2011 with break-up of Road/Rail is given below:

S. no.	Date	Shifts	Destination	Quantity	
				Rail	Road
1	31.03.11	A	SOLAPUR	329.5	1721.5
2	01.04.11	A+B+C	NAVALUR	3335.0	299.0
3	02.04.11	A+B	SANATNAGAR	2650.9	192.0
4	03.04.11	A+B	SOLAPUR	2674.9	119.0
5	04.04.11	C+A+B	BIGWAN	2731.8	227.5
			TOTAL	11722.1	2559.0
			GR. TOTAL	14281.1	



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He admitted that the above figures were reflected as dispatches on 31.3.2011 as per telephonic instructions of marketing department of Tandur unit. ***When asked if he would agree that in a single day 14281.10 MT (on 31.3.2011) of cement cannot be dispatched, Shri G. Basavaiah agreed and admitted the fact that in a single day 14281.10 MT of Cement cannot be dispatched under any circumstances. However, as stated above, the dispatches were shown as per instructions of Marketing dept.***

- XIV. The CVC also questioned Shri G.K. Singh, Addl. GM (Production) asking him to explain that the production figures from 27th March showed peak cement production from 3450 MTs, 3105 MTs, 4160 MT, 4350 MT despite the fact that was a breakdown of clinker production from 27.3.2011.

The details of production are reproduced below based on records:

Date	Clinker Production as per record(Actual)	Clinker Production as per Daily Production Report (DPR)	Clinker received from PENNA	Cement Production as per Records	Cement Production As Per DPR
27.3.11	1351.00	2000.00	Nil	2110.00	3450.00
28.3.11	Nil	500.00	Nil	Nil	3105.00
29.3.11	1000.00	3150.00	1170.08	780.00	4160.00
30.3.11	3181.00	3150.00	2051.88	3960.00	4500.00
31.3.11	3250.00	3000.00	1863.06	4130.00	4350.00
1.4.11		500.00	343.64	4270.00	510.00
2.4.11		510.00	Nil	3600.00	530.00
3.4.11		500.00	Nil	2870.00	300.00
4.4.11		Nil	102.6	Nil	Nil
5.4.11		Nil	108.92	245.00	Nil



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6.4.11		Nil	358.78	410.00	570.00
7.4.11		Nil	Nil	Nil	Nil

From the above table it can be seen that actual Cement production from 1.4.11 to 3.4.11 has been booked in advance in the last week of March 2011, so as to reach the production targets for the year 2011.

- XV. ***Inquiry conducted by CVC clearly revealed that on the basis of oral and documentary evidences, it is evident that the actual production figures of cement as on 31.3.2011 had been inflated and the production as well as despatches for the period 1.4.2011 to 3.4.2011 had been shown in the previous year. It was further seen from the statement on Ms. Saraswathi Devi. AGM (Operations) that these figures were being manipulated to meet the production targets and were in the knowledge of the CMD. She has also clarified that higher figures of Production and despatch were being shown as per the direction of the then CMD.***

- XVI. In a meeting held on 20th July 2016, the CVC gave directions that Commissions may be issued U/s 8(1)(d) of the CVC Act, 2003 authorising CVO, CCI to examine the Cost Auditors and Statutory Auditors of CCI regarding audits done by them and also to make further inquiries with M/s Penna Cement Industries Ltd. regarding their production, sale and stock position of cement and clinker in the relevant period.

In pursuance of the aforesaid directions, the CVO, CCI received the following authorizations:-

- Commission for examination of witness and documents in possession of M/s. Penna Cement Industries Ltd. 1.8.2016
- Commission for examination of witness and documents in possession of M/s. BVR & Associates, Cost Accountants, dated 26.8.2016 (Cost Auditors for financial years 2010-11 & 2011-12)

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- (iii) Commission for examination of witness and documents in possession of M/s. G.K. Rao & Co., CAs dated 26.8.2016 (Statutory Auditors for Financial year 2010-11).
- (iv) Commission for examination of witness and documents in possession of M/s Luharuka & Associates, dated 26.8.2016 (Statutory Auditors for financial year 2011-12)

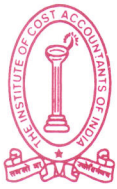
Accordingly, Mr. S K Singh, Chief Vigilance Officer issued summons to all the above 4 parties requesting them to appear before him at CCI Office in Hyderabad on 29th/30th of September, 2016 with the documents as mentioned in the summons. All these parties appeared before him and further inquiries were carried out.

- XVII. As the Disciplinary Committee of this Institute is only concerned with lapses/negligence of the respondent firm [mentioned in 16(ii) above] who were cost auditors for financial years 2010-11 & 2011-12, the findings of the CVO, CCI regarding the respondent firm is very crucial. The findings of CVO, CCI are given below:-

Shri B. Venkateswara Rao, Cost Accountant of M/s BVR & Associates, Cost Auditors attended and his statements were recorded on 29.8.2016 and 30.08.2016. In response to Question No.7 (Statement dated 29.3.2016) he admitted, that, they were supposed to verify all input records such as raw materials, power, utilities stores and spares, production overheads, etc., to arrive at a true and fair cost of production. In response to Question No.8, he admitted that Kiln and Cement Mill were two of the main cost Centre's for CCI, Tandur Plant. In response to Question No.3 (Statement dated 30.8.2016) he submitted, that, his team examined the raw material records, quantity records, etc., *but in response to Question No.4 he stated that they did not find anything adverse during the course of their cost audits for the financial year 2010-11 and 2011-12.* In Question No.6 (Statement dated 30.8.2016). Mr. Rao was confronted with the production figures of clinker for March, 2011, April, 2011 as per the stock register for the financial year 2010-11 and the corresponding daily log sheets of kiln for March, 2011 & April, 2011 showing actual production of clinker. *He was asked to state whether the figures of production were matching in these two sets of documents or not. In reply, Mr. Rao admitted that the figures were not matching; however, he claimed that they had relied upon DPRs (Daily Production Reports) which were prepared and authenticated by CCI. He claimed that, they had not verified /examined the*



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daily production reports of clinker with the stock register, to check the correctness of the figures in the DPRs given to them. In response, they confirmed that they had relied upon DPRs only before finalizing their report. From this reply, it is crystal clear that cost auditors have not done any checking/verification of basic cost records and have prepared their report after going through the DPRs only, which were given to them by CCI. In Question No.8 it was pointed out to them, that, as per Section 209(1) of the Companies Act, 1956, the company is required to keep and maintain the records regarding various items of cost and that this meant books of accounts and bills and vouchers and other supplementary records. It was further pointed out that M/s. BVR & Associates on page 1 of their audit report for 2010-11 had certified in 1st paragraph itself, that, they had examined the books of accounts prescribed under Section 209 (1) (d) of the Companies Act, 1956. In light of this, Mr. Rao was asked to clarify that when they had not examined the basic cost records and had merely relied upon DPRs (which are reports prepared by CCI staff on the basis of the stock register) why had they issued this type of Certification. In reply, Mr. B.V. Rao, Cost Auditor again confirmed that they had not examined the supporting cost records and claimed that, they had relied upon DPRs as they were finalized by the company and were confirmed by the Statutory Auditors also. In Question No. 9 Mr. Rao was confronted with the daily log sheets of the cement mill for the period 27.3.2011 to 4.4.2011 and the same production details of cement as per the stock register for the same period. In response, Mr. B.V Rao, Cost Auditor stated that, the figures were not matching and hence cost of production per unit will change. This effectively means, that, Mr. Rao admitted, that, their cost audit results are incorrect. In Question Nos.10 to 12, Mr. Rao was questioned about their satisfaction with the inventory valuation of CCI as observed by them in point 3, on page 1 of their audit report. They were asked that whether they had examined any papers relating to physical verification of stock before expressing their satisfaction. In response, Mr. Rao stated that their cost audit had taken place during the month of September, 2011 and that it was the responsibility of the internal audit. They confirmed that they themselves had not carried out any physical verification of stock. In the last question, i.e. Question No. 17, Mr. Rao was asked to comment on the findings of the examination that they had prepared their cost audit report merely on the basis of the statement's (DPRs etc.) given by CCI management and they themselves had not verified the correctness of this data from the primary records. In response, Mr. Rao claimed that when a company is having internal



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checks and control systems, they rely on the information provided by the Management and supported by the Statutory Auditors. This reply of Shri B.V. Rao is contradictory to their own observation in point 11 (h), page 7 of their audit report where they have stated that internal audit of cost records was not being done at CCI Tandur in the year 2010-11

Form the above, it is quite clear, that, M/s B.V.R & Associates Cost Auditors have not examined the basic cost records of CCI, Tandur before finalizing their audit report and are now trying to take the position, that, they had relied upon DPRs and other information provided by CCI, Tandur because it was prepared by the company and must have been verified by the statutory auditors.

XVIII. The copy of the complaint along with the relevant papers was duly forwarded by the Disciplinary Directorate to Shri Bhogadi Venkateswara Rao of the respondent firm vide letter ref no. G/DD/(FRN 000453)/CA(46)/1/02/2017 dated 7th February, 2017 requesting to send his written statement in response to complaint within in 21 days of the service of the letter. The respondent by his letter dated 27/02/2017, prayed for grant of additional period of 30 days. Accordingly additional period of 30 days was granted vide letter Ref No G/DD/(FRN 000453)/CA(46)/2/02/2017 dated 6th March, 2017.

XIX. The respondent vide his letter dated 24th March, 2017 denied the allegations made against him and stated inter alia as below:-

- (i) That his name is Bhogadi Venkateswara Rao, s/o late Raghavaiah, aged 60 years.
- (ii) That his Office is located at Flat No: 101, H.No: 6-3-328/3, Anand Nagar Colony, R.V. Naipunya Apartments, Khairabad, Hyderabad – 500004.
- (iii) That he is in Cost Accountancy Profession since September, 2006 and bring to kind notice, this is a Sole Proprietary concern up to 06-03-2013 and servicing as a Partnership Firm till then.



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- (iv) That Cement Corporation of India Limited, New Delhi, awarded to conduct Cost Audit of their Tandur Unit, Telangana State (erstwhile Andhra Pradesh State), for the FY 2010-11.
- (v) He informed that the existing Cost Audit Rules are not in force and the Cost Audit was ordered under Industry Specific Rules dated 2001 applied to Cement Industry.
- (vi) As regards the present complaint is concerned, he denied the allegation made against him that he has failed to carry out a proper audit to Tandur unit, Cement Corporation of India and he is not at fault, any point of time during the course of audit.
- (vii) In this connection he brought to kind notice, the cost audit is for financial year 2010-11 and cost audit rules applicable for reporting year is 2001, Under these rules, cost records as defined in section 209(1)(d) of Companies Act 1956, which is re-produced as below:

" In the case of a company pertaining to any class of companies engaged in production, processing, manufacturing or mining activities, such particulars relating to utilization of material or labour or to other items of cost as may be prescribed, if such class of companies is required by the Central Government to include such particulars in the books of Account:[Provided that all or any of the books of account aforesaid may be kept as such other place in India as the Board of directors may decide and when the Board of directors so details. The company shall, within seven days of the decision, file with the Registrar a notice in writing giving the full address of that other place.]"

- (viii) He informed that the company has submitted Audited Financial Statements duly signed by the Statutory Auditor dated 11.06.2011. The company has not submitted any provisional Financial Statements for the said period to them for the period ending 31.03.2011. The company has also submitted various formats in the course of conducting Cost Audit for the period.



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- (a) After the acceptance of the appointment, there were no changes in position in relation to the company that impede our firm's length relationship with the entity. Such as, Acceptance of an assignment relating to designing and implementation of cost accounting system for the entity.
- (b) Subsequent to their acceptance of the assignment, no issues about management integrity has cropped up that may affect the auditor's willingness to continue the engagement.

The involvement of key members of the audit team in planning the audit draws on their experience and insights, thereby enhancing the effectiveness and efficiency of the planning process.

- (ix) He has gone through the Audited Financial Statements submitted and other formats relating to Cost Audit and he has deployed his audit personnel to the factory on 07.09.2011 to 11.09.2011 (4 days) for conducting the Cost Audit. He enclosed herewith the evidence of his visit to factory. During the course of Audit, his audit personnel have gone through various records such as Stores Ledger, Production Records, Excise Records, etc., Produced before him and particularly the quantitative details were analysed using Random Sampling Technique, which is an accepted practice.

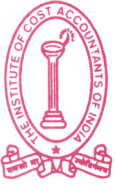
He gave a list of On-site audit activities carried out in CCI.

- (x) His firm had designed a cost audit programme to meet the scheduling and reporting. He enumerated below, the areas he has covered under Cost Audit Programme to stress the point that, the assignments he take, are with utmost seriousness.

- (a) Study and examine the chart of accounts with special reference to the system of cost methods adopted by the company.



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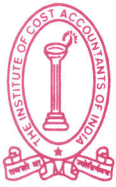
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- (b) Study the basic raw and packing materials, chemicals and stores required for the manufacture of the product and their sources.
- (c) Examine whether cost centers are split-up into production & services functions.
- (d) The licensed capacity and installed capacity should be ascertained. Any addition to production capacity during the preceding two years shall be ascertained.
- (e) Examine the adequacy of internal checks and control.
- (f) Understanding of the clients business and the production processes involved the flow of the process. Till the finished goods are packed and transferred to the finished stores for dispatch.
- (g) Obtain the Balance Sheets of the company for the past two years and make a note of the important points contained in the Directors' Report to the shareholders on the various financial, operation and technical matters.
- (h) Cost Accounting System followed by the company in respect of the products under Cost audit and examines its adequacy with reference to the Cost Accounting Records Rules.
- (i) Examine whether the company has properly and adequately identified the various production and service cost centers and whether the expenditure has been initially booked to these cost centers correctly.

For further substantiation of points he had carved out certain Para from Cost Rules (Cement) 1997 wherein high reliability has been placed on excise reports and the certification of statutory auditors.

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Certain points based on the Cost Rules (Cement) 1997.

Para 16 of Cost Rules (Cement) 1997-PRODUCTION RECORDS:

Quantitative records of all finished and packed production, issued for sales and balances of different types of products referred to in rule 2 produced by the company shall be maintained. The cost of all finished and packed production shall be kept in detail for each type of product or in the form of control account provided the value of the balances according to such control accounts are reconciled periodically at least once in a year with the value of the quantities shown in the quantitative account maintained for each type of products referred to in rule 2.

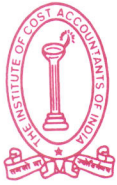
Reconciliation is required to be done with Excise and Statutory Financial Reports. This has been done Conformance of the above mentioned reconciliation is deemed to confer Cost Auditor undertaking the Cost Audit for a particular period having applied diligently his professional skills. He stated that the records mentioned above are reconciled with Excise Records for reporting the quantity produced and same records are submitted in the form of returns to Central Excise Department and are also duly certified by Practicing Chartered Accountants

Para 17. Cost Rules (Cement) 1997. RECONCILITATION OF COST AND FINANCIAL ACCOUNTS

(i) Cost recordsshall be reconciled with the financial books of account for the financial year so as to ensure accuracy. Variations, if any, shall be clearly indicated and explained. The reconciliation shall be done in such a manner that profit of the product under reference can be correctly arrived at and reconciled with the overall profit of the company. (ii) A statement showing the total expenses incurred and income received by the company under different heads of accounts and the share applicable to the products under rule 2 shall be maintained and reconciled with the financial accounts for the period.

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The above indicates that cost audit reports are prepared based on the financial audit reports which are duly certified by Practicing Chartered Accountants and through reconciliation process the differences are disclosed.

Para 19, Cost Rules (Cement) 1997:- STATISTICAL RECORDS

(i) *Data regarding* available machine hours/direct labour hours in different production departments and actually utilized shall also be maintained and shortfall suitably analyzed Suitable records for computation of idle time of machines shall be maintained.

(ii) Adequate records shall be maintained to enable the company to identify the capital employed, net fixed assets and working capital separately for the product referred to in rule 2 and other activities. Fresh investments on fixed assets that have not contributed to the production during the relevant period shall be indicated in the cost record. The records shall, in addition show assets, be added as replacement and that added for increasing existing capacity.

The respondent stated that there are certain statistical records which are also verified during cost audit and log books or any other unofficial records do not form part of statistical records.

Abstract or copies of the entity's records

(i) Stock Verification Statement as submitted by Statutory Auditor.

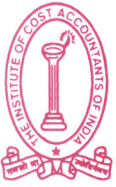
As Cost Auditors, they heavily rely upon the Auditors report especially with regard to stock verification reports as it is assumed to be done in professional and diligent manner with application to Auditing standards.

(ii) Quantity Reconciliation as on March 31st 20XX and stock turnover ratios.

(iii) Excise Returns Submitted by the Company, We extensively rely upon this statement as this is a statutory record reflecting the complete movement of

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goods and services.

While conducting the audit, he complied with each of the Cost Auditing Standards relevant to the audit with Independence, Integrity, Objectivity, Professional competence and due care, Confidentiality and Professional conduct.

At this juncture, the respondent stated that the allegation made by the CVO, "We have not carried the Audit properly" is not tenable and not justifiable.

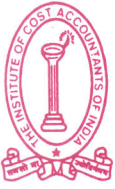
- (xi) Further, he had obtained the production details of the official Daily Production Register maintained by the company and the same was certified by the Statutory Auditors, incorporated in the Financial Statements and there is no need of again going beyond the verified data which the Cost Auditor is supposed to rely on "verified data" and Daily Production Register is also deemed to fall under "verified data".

Hence he is not negligent in conducting the Audit, as pointed by CVO in this regard, as these activities are carried out by the company under the instructions of the then Management, as evident by the enquiry conducted by the CVO.

- (xii) The respondent further stated that an official of the company, namely, Smt. Saraswathi Devi, Assistant General Manager (Operation) has categorically expressed that "As per the instruction of Corporate Office, New Delhi " followed previous practice" the dispatch figure was shown as on 31.03.2011, to meet production targets adjustments of figures were made. In these circumstances he stated that the activities cropped up are purely internal, how can the Cost Auditor be held responsible, as noted by the CVO

- (xiii) He also had gone through the Excise Records: - Returns submitted by the company to Excise Authorities. In this connection he would like to bring to kind notice that production details are matching with the returns submitted. He had enclosed the reconciliation of the same.





- (xiv) He also stated that internal Audit is Vogue in the organizational and certified the closing Stock etc. This is also "Verified data" and hence relied on in respect of the Daily Production Registers and finalized the Cost Audit Report for the said period.
- (xv) Further, the CVO has completely ignored conversation with Internal Vigilance Department of CCI – Tandur unit & Government Audit (C & AG), as there was nowhere mentioned in the enquiry proceedings, which appears protecting their own Government Authorities, which clearly appears that CVO has completely passed on the responsibility to Auditors and commented as "erring officials", which is not endured, whereas the Auditors have discharged their duties, as per the relied procedures and rules. In this connection, he had requested the Corporate Office, to make available a copy of the C & AG Report so as enable to peruse the report and respond suitably.
- (xvi) In view of the above he once again reiterated that he had conducted the Audit for the said periods diligently and the Management has followed "previous practices" in vogue to meet the targets set by the Corporate Office with respect to Quantitative & other matters, as stated supra.
- (xvii) Cost Auditor, generally, is not required to conduct audit of financial transactions. Preparation of Cost Statements as per cost reporting framework is the responsibility of the management or those charged with governance. The cost auditor's responsibility is to obtain reasonable assurance of the cost statements as a whole.
- (xviii) The Annual Financial Audited Report and the Central Excise Records are normally accepted as trustworthy documents for any transactions or report preparations. There is no reason for him as Cost Auditors to mistrust the above two records for a conglomerate like Cement Corporation of India.



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The respondent concluded by saying that the supporting documents of his Audit team's visit to the factory clearly prove that they had taken sincere efforts in doing a fair Cost Audit. He had adopted Random Sampling method for verification of records, which is an accepted practice. He had fully relied on the records accepted by the Government, viz. The Financial Audited Report submitted to the Ministry of Corporate Affairs and the Central Excise Records. He requested the Disciplinary Directorate, taking into account his reputation as an untainted Senior Fellow Member of our reputed institute; the charges framed against him may be dropped at the outset, as there are no lapses at our end in discharging the audit function. He also informed that he will take a note on the things that are prevailing and will be very cautious and due care shall be taken in future keeping in view the experience faced in this Audit.

5. The written statement of the respondent was sent to the complainant vide letter dated 6th April, 2017 for sending rejoinder on the same. The complainant prayed for grant of additional period of 30 days. Accordingly additional period of 30 days was granted vide letter Ref No G/DD/DHE-VS/Com-CA (46)/3/05/2017 dated 11th May, 2017. In rejoinder, Cement Corporation of India Ltd. had submitted Para wise comments on the written statement of M/s BVR Associates.

- Para's 1 to 5: No Comments
- Para 6: The averment made by the party is factually incorrect. Based on oral and documentary evidences of the case including statements dated 29.08.2016 and 30.08.2016 of the party; it is comprehensively proved that the allegations leveled against the party are correct.
- Para 7: The party has simply reproduced the definition of 'cost records' under the Company's Act, 1956. Under the Company's Act, 1956.
- Para 8: The party has admitted that CCI has submitted various formats as was required for the conduct of cost audit for the period.
- Para 9: The visit of the party for conducting cost audit during the relevant period is not denied. However, the fact is that the party has not done any checking/verification of basic cost records



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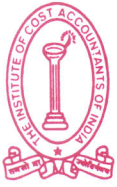
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and has prepared their Audit Report after going through the DPRs only, which were given to them by CCI. Therefore, the basic purpose of getting auditing done by an independent outside agency was defeated. Even if the information was provided by CCI and which was verified by the statutory auditors, the party has failed to perform their duty diligently. It has been claimed, that, particularly the quantitative details were analyzed using Random Sampling technique. This claim was not made in the statements recorded on 29.8.2016 and 30.08.2016. On the contrary, in reply to question No.6 of statement dated 30.08.2016; they had stated that they had taken quantitative details from the DPRs only.

- Para 10: The contention of the party that they have obtained the production detail of the officials daily production register maintained by CCI and the same was certified by the statutory Auditors is not tenable. The party vide question no. 9 of his statement dated 30.08.2016 has admitted that the figures mentioned in the daily log sheet of Cement Mill for the period 27.03.2011 to 04.04.2011 showing the actual production details of cement and the stock registers for the same period were not matching. If it is so, there will be change in the per unit cost of the production. In their statement dated 29.08.2016, the party vide question 7 has admitted that they are required to verify all the input records such as Raw Materials, Power, Utilities, Stores and Spares, Production Overheads records of the company to arrive a true and fair of Cost of Production. Further vide answer 8 of statement dated 29.08.2016 the party has also given the main production cost centers for all these records and statements of the party it is evident that the party has exhibited negligence in conducting the audit as pointed out by the CVO, CCI.
- Para 11: The plea taken by the party is not convincing. In order to escape from his wrongful actions and negligence in performing their assigned duties, the party is now trying to shift all the responsibility on Ms. Saraswathi Devi, AGM (Operations). Besides, the party was not required to follow unauthorized and illegal directions of Ms. Saraswathi Devi. Otherwise, there is no purpose of engaging an independent party as per rules of the Gov.t / CWAI, Companies Act.
- Para 12: The party has admitted vide answer 16 of their statement dated 30.08.2016 that the cost audit is an independent examination of cost statements, cost records and other related



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Website : www.icmai.in

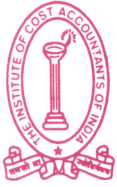
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information of an entity including a non-profit entity, when such an examination is conducted with a view to expressing an opinion thereon under Cost Records and Audit Rules, 2014.

- Para 13: The version of party is not tenable for the reasons as stated above in Para 10.
- Para 14: the contention of party that they have been singled out in this case is factually incorrect. In this case disciplinary action has been initiated against 9 CCI officials and displeasure letters including non-consideration of their names for any further appointments in govt. organizations have been taken against 6 officials of CCI. Besides appropriate disciplinary actions are being taken against other 2 statutory/Cost Auditors. The party in their statement dated 29.08.2016 read with statement dated 30.08.2016 has categorically admitted shortcomings in the cost audit resulting in change of financial figures of CCI in the balance sheet.
- Para 15: As stated in CVO's report dated 2.9.2016 (Pages 18, 19 and 20), the party has not conducted audit diligently as claimed by them. This is corroborated from their statements dated 29.8.2016 and 30.08.2016.
- Para 16: The version of the party is denied. In this context, it is submitted that what are the guidelines/ procedures, etc., prescribed by the Institute of Cost Accountants of India in this regard may be examined and that whether they have been complied with by M/s. BVR & Associates in this cost audit done by them.
- Para 17: It is a general statement.
- Para 18: The assertion of the party that cost auditors is not required to conduct audit of financial transactions and believe in the reporting frame work including preparation of cost statements by CCI is totally a misleading statement. The cost auditor is not required to function and play role of post office. The party has admitted that the cost auditors responsibility is to obtain reasonable assurance of the cost statement as a whole. In their statements dated 29.08.2016 vide portion 6, 7, 8 and 9 supported with statement dated 30.08.2016 vide questions 3 to 16, the party has admitted the shortcomings on the part of party while conducting the audit for the relevant period in respect of Tandur Cement Factory.



Binwarp Basu



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

DISCIPLINARY DIRECTORATE

Telephones : 2252-1031/1034/1035
2252-1602/1492/1619
2252-7143/7373/2204
Mail id : discipline.director@icmai.in
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- Para 19: The plea taken by the party is not tenable. The party is duty bound to cross check the facts and figures produced before them by the CCI.
- Para 20: The party has in fact admitted their lapse while performing their duty at Tandur Cement Factory. In fact, they are admitting that they have not been cautious i.e. they have been lax in this case.
- Para 21: The plea of the party is not acceptable, in view of the statements dated 29.8.2016 and 30.08.2016 of the party.

The complainant concluded that from the above, it is quite clear that the Cost Auditors have not examined the basic cost records of CCI, Tandur before finalizing their audit report and are now trying to take the position, that, they had relied upon DPRs and other information provided by CCI, Tandur because it was prepared by the company and must have been verified by the statutory auditors. Therefore, appropriate disciplinary against the party is warranted.

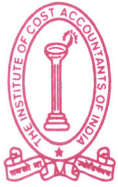
6. The Disciplinary Directorate vide letter ref No G/DD (Director Technical)/11/2017 dated 13/11/2017 addressed to Senior Director (Technical) of the Institute sought his opinion in the matter on the basis of Cost Audit Standards and Guidelines prescribed by the Institute if any, in this regard. The Senior Director (Technical) of the Institute vide their letter dated 17/11/2017 replied *inter alia* as follows:-

"Since the complaint is pertaining to the Cost Audit period 2010-11, the opinion is based on the erstwhile Companies Act 1956 and the Cost Audit Report Rules, 2001(CARR-2001) which were in vogue during that period. After going through the relevant provisions contained in the aforesaid Rules, it is pertinent to mention that both the points are overlapping hence a combined opinion is furnished hereunder.

Regarding Scope of Cost Auditor, this is to inform you that the necessary provisions of Companies Act 1956 with regard to Cost Audit were contained in Section 233B read with Section 209(1)(d). Section 233B (4) of the Companies Act 1956 stipulates that the Cost Auditor shall have the same powers and duties as were prescribed for a Statutory Auditor (Chartered Accountant) under Section 227(1) of the Companies Act 1956, and which *inter alia* are as follows:



Biswarup Bose



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

DISCIPLINARY DIRECTORATE

Telephones : 2252-1031/1034/1035
2252-1602/1492/1619
2252-7143/7373/2204
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A] To ensure whether transactions of the company which are represented merely by book entries are not prejudicial to the interests of the company;

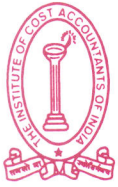
b] The auditor's report shall also state whether he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purposes of his audit; and in his opinion, proper books of account as required by law have been kept by the company so far as appears from his examination of those books, and proper returns adequate for the purposes of his audit have been received from branches not visited by him.

It is to further inform that the conduct of Cost Audit by a Cost Auditor was regulated by the CARR-2001 as amended. As per the CARR-2001, the role of Cost Auditor is to give his observations and suggestions on the following important points after verification of Cost Records:

- (a) Inventory Valuation: The adequacy or otherwise of the cost accounting system including inventory valuation in vogue in the company and suggestions for the improvement thereof. The Cost auditor shall also indicate the persistent deficiencies in the system, pointed out in earlier reports but not rectified;
- (b) Budgetary Control: The adequacy or otherwise of the budgetary control system, if any, in vogue in the company;
- (c) Related Party Transactions: Such cases, where price charged for related party transactions as defined in the respective Cost Accounting Records Rules is different from normal price, impact of such lower/higher price on margin of the product under reference shall be specified;
- (d) Profitability: Areas where the company is incurring losses or where there is considerable decline in profitability, the cost auditor should comment on the reasons thereof including indicative break-even point. The cost auditor shall also comment on the default, if any on the payments due to the Government, financial institutions and banks, penal interest levied thereon and its impact on the cost of sales and profitability;



Biswarup Basu



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

DISCIPLINARY DIRECTORATE

Telephones : 2252-1031/1034/1035
2252-1602/1492/1619
2252-7143/7373/2204
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- (e) Internal control and internal Audit: the Scope and performance of internal audit of cost records, if any, and comment on its adequacy or otherwise.
- (f) Performance improvement: The Cost Auditor shall suggest measures for making further improvements in the performance in respect of cost control and cost reduction
7. As per the complaint received from Department of heavy industries, written Statement of M/s BVR & Associates, Cost Auditors (Respondent) and the opinion of the Senior Director (Technical), it is clear that Cost Auditor had not examined the Basic Cost Records of CCI, Tandur before finalizing the audit report and failed to carry out a proper audit as was required and had merely prepared their reports on the basis of DPRs and other information provided by the company. Accordingly, prima facie opinion was formed by Director (Discipline) under Rule 9(2)(a)(ii) of the Rules and the same was put up before the Disciplinary Committee at its 34th meeting held on 8th January 2018 holding the respondent firm guilty of violation of:
- (I) Clause (7) of Part I of Second schedule to the CWA, Act, 1959
(II) Clause (8) of Part I of Second schedule to the CWA, Act, 1959
- The committee members noted and agreed with the prima facie opinion framed by the Director (Discipline) in terms of Rule 9(2)(b) against the respondent firm. Director (Discipline) was directed to ensure compliance of Rule 18(2)/18(3) of the Rules.
8. In the 37th meeting of the Disciplinary Committee held at New Delhi on 24th April, 2018, the Disciplinary Committee advised Director (Discipline) to call both the parties at a future meeting of the Committee for making oral submissions in terms of Rule 18(6) of the Rules. Accordingly, letters dated 9th May 2018 were sent to both the parties requesting them to make oral submissions, if any in accordance with Sub-Rule (6) of Rule 18 of the Rules at New Delhi on 14th May 2018. The respondent, in the meantime, vide his email dated 12th May 2018 informed that due to family event, he is not able to attend the meeting and sought adjournment to a different date.
9. In the 39th meeting of the Disciplinary Committee held at New Delhi on 14th May 2018, on behalf of the Department of heavy enterprises, AGM (V) and Sr. Manager (V) of CCI were present and made



Biswamp Bosa



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

Telephones : 2252-1031/1034/1035
2252-1602/1492/1619
2252-7143/7373/2204
Mail id : discipline.director@icmai.in
Website : www.icmai.in

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their oral submissions. The committee noted the submission of the complainant and decided to give another opportunity to the respondent to be present in the future meeting of Committee for making oral submission in terms of Rule 18(6) of the Rules. The respondent was requested by a letter dated 18th June, 2018 to make oral submissions, if any, at New Delhi on 27/06/2018 in accordance with sub-rule (6) of Rule 18 of the Rules.

10. In the 42nd meeting of the Disciplinary Committee held at New Delhi on 27th June, 2018, Shri B. Venkateswara Rao, respondent and his duly authorised representative, Mr. Suneel Kumar Appaji FCA, appeared before Committee and made the oral submission. Since, respondent has not pleaded guilty, the committee noted the submission of the respondent and advised Director (Discipline) to call the respondent at a future meeting of the Committee for production of witnesses in support of their contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the Rules. In the 44th Meeting of the Disciplinary Committee held at Mumbai on 5th October 2018, the Committee re-affirmed its earlier decision that both the complainant and the respondent are to be called in the next meeting of the Committee to produce witnesses in support of his 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. In due compliance with the above mentioned directives, letters dated 16th October 2018 were sent to both the parties requesting them to appear before the Disciplinary Committee on 26th October 2018 at the Institute HQ at Kolkata to produce witnesses in support of his contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the Rules.

11. The respondent, in the meantime, vide his letter dated 24/10/2018 informed that due to pre-occupied with Stock Audits in Andhra Pradesh he is not able to attend the meeting and sought adjournment to a different date. The complainant also did not attend the meeting. The Committee noted that both the parties have failed to attend the meeting. The Committee deliberated on the same and decided to provide one more opportunity to both the parties and call them in the next meeting of the Committee to produce witnesses in support of his contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the Rules. In compliance with such directives letters dated 19th March, 2019 have been sent to both the parties requesting them to appear before the Disciplinary Committee on 1st April 2019 at the EIRC of The Institute of Cost



Biswajit Basu



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

Telephones : 2252-1031/1034/1035
2252-1602/1492/1619
2252-7143/7373/2204
Mail id : discipline.director@icmai.in
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Accountants of India, Kolkata to produce witnesses in support of his contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the Rules.

12. The authorised representative from Cement Corporation of India appeared before the DC at the scheduled date and time and produced document /material evidence. The Committee noted that the respondent had again failed to attend the meeting. The Committee deliberated on the same and decided to provide one more opportunity to the respondent and call him in the next meeting of the Committee to produce witnesses in support of his contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the Rules. Accordingly, letter dated 10th July 2019 was sent to the respondent requesting him to appear before the Disciplinary Committee on 19th July 2019 at Kolkata to produce witnesses in support of his contention and to produce any document or material evidence in terms of Rule 18(9)/18(10) of the Rules. The Committee noted that the respondent had yet again failed to attend the meeting. The Committee decided to provide one final opportunity to the respondent in the next meeting of the Committee for compliance with Rule 18(9)/18(10) of the Rules.
13. In compliance with the decision taken at the 47th meeting of the Disciplinary Committee held on 19th July 2019 at Kolkata, an email dated 3rd February 2021 was sent to the respondent requiring the respondent's presence before the Disciplinary committee on 10th February 2021 at Chennai for compliance of Rule 18(9)/18(10) of the Rules. In the 49th meeting of the Committee held at Chennai on 10th& 11th February 2021, the Committee noted that the Institute has considered the prima facie opinion and particulars and documents relied upon by the Director (Discipline) during the course of formulation of prima facie opinion at its 34th meeting held on 8th January 2018. The Committee reconfirmed the findings of the Disciplinary Directorate and stated that this was prima facie a case of professional misconduct as the Cost Auditor of the respondent firm appeared to have erred in not examining the cost records of their client organization before finalizing the audit report and failed to carry out a proper audit as was required and had merely prepared their reports on the basis of DPRs and other information provided by the company.
14. The respondent, through his authorized representative Shri Sunil Kumar Appaji, Chartered Accountant appeared through virtual mode before the Disciplinary committee in terms of Rule 18(9)/18(10) of the Rules. However, he expressed his ignorance in answering most of the questions



Biswarup Basu



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

Telephones : 2252-1031/1034/1035
2252-1602/1492/1619
2252-7143/7373/2204
Mail id : discipline.director@icmai.in
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posed by the Disciplinary Committee stating to be unaware of the answers. Neither did he produce any evidence nor did he bring any witness in support of the contention of the respondent firm. The Disciplinary Committee directed Director (Discipline) to write to the respondent to submit his written submissions, if any. Accordingly, a letter Ref No.: G/DD/(FRN 000453)/CA(46)/12/02/2021 dated 18th February 2021, followed by an email on the same date was sent to the respondent firm requesting them to submit written submissions, if any, within 10(ten) days of the date of service of the letter. Shri B. Venkateswara Rao, Partner of respondent firm vide his letter dated 26.02.2021 replied as follows which is quoted in verbatim:

“Dear Sir,

Sub. :Our Rebuttal Communique to the allegation relating to the Cost Audit of Cement Corporation of India (Tandur Unit) for the year 2010-11 and 2011-12 (covering two accounting periods) in addition to our earlier responses.

Ref: Complaint No. 21-CA/46/2017 – In the matter of G/DD/(FRN000453)/CA(46)/6/06/2018.

In pursuance to our earlier replies in the above matter, we submit the following as narratives for your kind perusal:

General Background:

- 1) An Audit is a systematic and independent examination of data, records, operations, etc. to unearth any errors happened and frauds committed and record and report the same to stakeholders. In the case of statutory financial audit, the main body of the audit report conveys that Management is responsible for presentation of accounts and auditors examine the record independently. Also, they state “We conduct our audit based on the information and documents submitted to us”. Hence, auditors cannot go beyond their scope to call for all the records which may not be relevant for the purpose of audit. In the present scenario, where issues emerge as Key Audit Matters, clarifications are sought for and Management representations received. Therefore audit is not conducted with investigative bent of mind, in general.



Biswarup Basu



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COST ACCOUNTANTS OF INDIA**
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CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

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2252-1602/1492/1619
2252-7143/7373/2204
Mail id : discipline.director@icmai.in
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In the case of statutory cost audit u/s. 233(B), the reports are prepared based on the Audited Financial Reports only as a Practice and discrepancies, if any, between the two due to the differential treatment of transactions are shown in Reconciliation. So, in this case, we based our report on the Audited Financial Reports as certified by Practising Chartered Accountants.

- 2) In CCI, internal audit was also conducted for the reporting periods, Internal audit is an independent management function which involves a continuous and critical appraisal of the functioning of an entity with a view to suggest improvements thereto and add value to and strengthen the overall governance mechanism of the entity's strategic risk management and internal control systems. So, the scope of the internal audit is also very clear that a critical appraisal of the operations, examination of internal control systems with checks and balances mechanism, monitoring the overall governance mechanism by pointing out lapses and weaknesses inherent in the system.

Internal auditors have done a review of control systems. We have conducted the cost audit after having a walk through over internal audit reports also wherein no major weaknesses and lapses were reported by internal auditors. It is noteworthy to mention here that there was no internal audit of cost records but a general internal audit was conducted and we had to necessarily reply on the contents of the report.

- 3) In the case of Cost Audit also, check lists and audit programmes are prepared and field visit is conducted and we certify the figures after verifying the financial records, cost records and statistical records. So, we conducted our cost audit with utmost care.

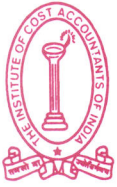
Cost Audit of:

1) Production Function :

- i) Clinker is a raw material for manufacturing cement and the cost object is Cement represented in Units-MT, for which cost is ascertained on true and fair view principle (Truing Up process) and not accurate. Since, CCI manufactures Cement, clinker is an Intermediate product when it is purchased and WIP material when it is manufactured. So, we focus on the production of cement in MT for the two reporting periods and not clinker for preparation of the Cost Sheet.



Biswarup Basu



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COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

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2252-1602/1492/1619
2252-7143/7373/2204
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Website : www.icmai.in

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Here, we verify the Daily Production Reports and arrive at the Cumulative Production unit annually and compare with Exercise records. We have done test checks of production records relied upon the audited figures as certified by Financial Auditors.

- ii) Even in the case of production, our Institute's Exposure Draft on Guidance Note- 2012 (366 pages) on Cost Audit Page No. 135, states that "It is self explanatory that Actual production quantity need not always be equal to production as per Excise records". It is still in the Exposure Draft phase and so far not finalized because of changes in 2014 as Cost (Records and Report) rules.
- iii) Our latest G N on 1A on Cement Industry – 2020 (97 pages) also talks about check list for production function and related matters. Page No. 53 says "Production department covers the entire gamut of the process from limestone crushing to packing plant and it prepares and reports daily production, production hours of mills, break-downs and despatches". The audit process covers checking whether daily production reports cement grade-wise are prepared with all WIP and whether the production is as per the requirement communicated by Marketing and Sales department. We have conducted the audit adopting the above checklist.
- iv) We ascertain the cost of production for cement produced and not despatched and even it dispatch takes place in next year, per unit cost of production is determined for the produced units in the current year which is as per DPR (or Excise Records as the case may be) and not the despatched units. So, cost of production will not have a material impact considering all direct costs and overheads related to the production. However, selling and distribution overheads per unit will be calculated based on the units sold. This will have the impact to the tune of difference between units produced and units sold which is not material in our case.

Purchase Function:

The procurement of Clinker (15000 MT) by CCI is based on their requirement to meet the year-end target and to maintain custody stock (safety stock) and we could not comment on this purchase since it is their policy of keeping emergency stock level at the year end. Transaction checks have been carried out to check whether purchase policies and procedures are complied with. CCI had



Biswamp Basu



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COST ACCOUNTANTS OF INDIA**
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CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

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2252-1602/1492/1619
2252-7143/7373/2204
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purchased this quantity due to self-manufacture capacity constraints. It is to be noted that as long as the same is disclosed as closing stock (if it is not consumed) in the books of accounts and the same are audited and certified by Statutory Financial Auditors. Management represented that clinker was purchased due to break down of machinery at intermittent times and we could not verify the Machine Log book.

As per the General Guidelines on Internal Audit issued by the Institute of Chartered Accountants of India- 2007-Page No. 30 says "Identifying weaknesses in controls that can lead to frauds. The auditor cannot be expected to carry out a continuous and roving search of frauds everywhere in the organization". We could not assume any grounds for a fraudulent deal in this procurement.

Operations-Power Consumption:

In this matter also, we could not establish a proper nexus between power consumption and the Kiln Operations since we are not Technical Experts compared to Engineers. However, we could check the power consumption costs related to the production in an economically feasible manner so that they are absorbed as utility overheads in determining the cost of production.

Despatch of Cement:

It was stated that the despatches of next year were accounted for in the current year by adjustments in the log book. This will have an impact on the current year as well as subsequent year's revenue stream. However, the cost of production figure will not change materially because cost is ascertained based on production units. Here, the log books were not available for audit and hence the adjustments could not be reported by us. Again, we relied upon the financial audit reports only for the revenue to show in cost sheet.

General:

In the main body of the Audit report the following is conveyed:



Biswamp Basu



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

Telephones : 2252-1031/1034/1035
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Management is responsible for presentation of cost accounts and we examine the records independently. We conduct our audit based on the information and documents submitted to us.

Therefore, we cannot go beyond our scope to call for all the documents which may not be relevant for the purpose of our audit. Wherever we have issues (KAMs- Key Audit Matters) we ask for representation. We cannot conduct the audit with investigative bent of mind, in General. If anything suspicious and reported accordingly as fraud, we are also bound to report – the same and loss due to fraud is not treated as cost.

We also have CAAS for conducting our audit complying with the same. In our reporting, "mens rea" is absent which implies that we do not have any criminal intent. We have conducted our cost audit in good faith.

We have furnished our observations and comments categorically with the relevant sources of information we had utilized to draft this communicate. We also reviewed keenly the contents of the complaint and come to the conclusion that your allegations were to some extent unfounded.

We do not deny the fact that the transactions of the kind of bulk purchase of clinker, despatches of next year accounted for in the current year, machine break down, collapse of the Kiln, power consumption, etc. happened which will have a bearing on the operations of the company. My only issue with the complaint is the fact that I was wrongfully implicated. I am unable to prove that I was not part of the ring.

In light of the aforesaid, I plead that you consider revising the allegations and drop the charges framed against me. This, I sanguinely believe, shall resolve the issue once and for all.

To sum up, we suggest that we hold a web meeting again to deliberate on the issue one-on-one. This way, it will be possible to understand our side of the narrative and to also iron out any ambiguities.

Thanking You Sir,
Yours faithfully,

Biswarup Basu





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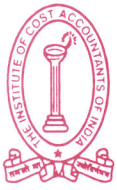
For BVR & Associates

B. Venkateswara Rao"

15. In the 50th meeting of the Disciplinary Committee held at Chennai on 12th March 2021, the learned members perused through the written submissions of the respondent and noted that the Partner of the respondent firm has admitted that certain important things having bearing on the operations of the company like the transactions of the kind of bulk purchase of clinker, despatches of next year accounted for in the current year, machine break down, collapse of the Kiln, power consumption, etc. happened. The Committee also noted that the logic of the respondent that "We also have CAAS for conducting our audit complying with the same. In our reporting, "mens rea" is absent which implies that we do not have any criminal intent. **The statement of Shri B. Venkateswara Rao, cost auditor and Partner of the respondent firm that "We have conducted our cost audit in good faith" do not hold any water. It is a fact that the Cost Auditor has erred in his official duty and this tantamount to dereliction of duty. The Director (Discipline) presented evidence holding the respondent guilty of violation of Clauses(7) & (8) of Part I of Second schedule to the CWA, Act, 1959.**
16. The Disciplinary Committee directed the Secretary of the Committee to call Shri B. Venkateswara Rao, Partner of the respondent under Rule 18(13) of the Rules at a subsequent meeting of the Committee to afford him an opportunity to enter upon his defence and produce evidence. Accordingly, email dated 24th June 2021 was sent to the respondent to appear before the Disciplinary Committee through the virtual mode on 29th June 2021 for compliance of Rule 18(13) of the Rules. The respondent vide his letter dated 25th June 2021 authorised CMA B. Kumar, FCMA, Practising Cost Accountant, to act as his authorised representative to appear before the Disciplinary Committee to enter upon his defence and produce evidence in terms of Rule 18(13) of the Rules.
17. CMA B. Kumar, authorized representative of the respondent firm appeared before the Disciplinary Committee on the appointed date and time. He mentioned inter alia that the firm had relied upon test checks and did not examine all cost records of CCI, Tandur unit before finalizing the audit report. He also admitted the fact that the Cost Auditor had prepared their reports on the basis of DPRs and other information provided by the company. After his submissions were over, the Committee discussed and deliberated over the matter and reasserted that there was a clear case of



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misconduct on the part of the cost auditors. In this meeting, CA G.V. Krishna, learned Government Nominee & Member, Disciplinary Committee, directed Director (Discipline) to seek the following information from the respondent firm for placing the same before the Disciplinary Committee in its next meeting:

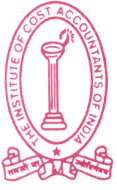
- a. The number of days the cost audit was conducted during the FY 2011-12
- b. Whether any audit programme was prepared.
- c. If so, to provide the Disciplinary Directorate with a copy of the audit programme
- d. Number of team members comprising the audit party

18. Accordingly, a letter Ref No. G/DD/(FRN 000453)/CA(46)/15/07/2021 dated 23rd July 2021 was sent to the respondent requesting him to furnish the above mentioned information. In the 53rd meeting of the Disciplinary Committee held on 5th August 2021, it was informed to the Committee that Shri B.V. Rao responding on behalf of the respondent firm, by an email dated 30th July 2021 received at or about 7.04 PM replied to the above mentioned queries of the Disciplinary Directorate. *In regard to providing the Disciplinary Directorate with a copy of the audit programme, Shri B.V. Rao stated in his email of 30th July 2021 that audit programme was not traceable.* The learned members of the Committee discussed and deliberated at length after considering the evidences and arguments produced by the respondent and arrived at a finding under Rule 18(17) of the Rules that there was a strong case against the respondent firm of committing of professional misconduct and directed Director (Discipline) to give him an opportunity of being heard in the next meeting of the Committee in terms of Rule 19(1) of the Rules before passing an order under sub-section (3) of Section 21B of the CWA Act, 1959.

19. In compliance with the aforesaid directives of the Committee letter/mail dated 23rd August 2021 was sent to the respondent calling upon him to appear before the Disciplinary Committee on 28th August 2021 at the Institute headquarters at Kolkata under Rule 19(1) of the Rules to enable him an opportunity of being heard before passing any order under sub-section (3) of Section 21B of the Cost & Works Accountants Act, 1959. He has also been given the option to appear through video conference. CMA B. Kumar, authorized representative, appeared on behalf of the respondent firm at the appointed date and time and made his submissions. He reiterated the submissions made on 29th June 2021 when he was called upon to produce evidence in terms of Rule 18(13) of the Cost and



Biswajit Basu



**THE INSTITUTE OF
COST ACCOUNTANTS OF INDIA**
(STATUTORY BODY UNDER AN ACT OF PARLIAMENT)
CMA BHAWAN
12, SUDDER STREET, KOLKATA – 700 016.

Telephones : 2252-1031/1034/1035
2252-1602/1492/1619
2252-7143/7373/2204
Mail id : discipline.director@icmai.in
Website: : www.icmai.in

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Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The gist of his submissions was as follows:

- **The Institute's Exposure Draft on Guidance Note- 2012 on Cost Audit Page No. 135, states that "It is self explanatory that Actual production quantity need not always be equal to production as per Excise records".**
- **The difference between actual production and production shown in the DPRs' was meagre and not material considering the total annual output on the basis of which cost of production per unit was arrived at.**
- He admitted that the respondent firm could not establish a proper connection between power consumption and the Kiln Operations since they were not Technical Experts/ Engineers.
- **By oversight they have not offered comments and observations regarding the discrepancy between DPRs and records and they are apologetic about such a miss.**
- Finally, the authorized representative, requested the learned members of the Committee to take a lenient view in the matter and drop the charges against the respondent firm. He further stated that they would be more careful in carrying out audit assignments so that such omissions do not occur in future.

20. In the 55th meeting of the Disciplinary Committee held at Kolkata on 8th September 2021, Director (Discipline) placed before the Committee a note (which was circulated to all the esteemed members of the Disciplinary Committee by email dated 3rd September 2021) by CMA Ashwin G. Dalwadi, Member, Disciplinary Committee which is reproduced below:

'According to me, based on the perusal of the complaint records, I would like to draw kind attention of following facts which shall be critical to this case:

a) This case is based on the investigation that production and supply figures have been inflated and the same has not been noticed by any of the auditors viz. Financial, Internal or Cost Auditors.

i. The reason lies in understanding the difference between auditing and Investigation.



Biswarup Basu



ii. Difference between audit & Investigation

*iii. In general, **Auditing** is conducted to verify the extent of truthfulness and fairness of the financial records of an entity. The process of inspecting the financial statement of an entity and then giving an independent opinion on it is known as Auditing. The scope of the auditing is based on the Standards on Auditing. It is a process driven to identifying whether the results of accounting information are accurate and according to the specified norms or not.*

*iv. **Whereas** a careful and detailed study to discover truth is known as Investigation. It is performed to prove a certain fact. The scope of the investigation rests on the terms of engagement and is specific. Investigation is a severe examination of specific records so as to establish & highlight a fact.*

v. The evidence obtained from audit process are persuasive. Conversely, the nature of evidence obtained from Investigation process is conclusive.

b) Please refer to para 9 on page 111 to 116 of respondent's response dated 24-03 2017, clearly shows that he has followed auditing processes as laid down in the rules and also has taken cognizance of earlier Cost Accounting Records (Cement Industries) Rules, 1997

c) The allegation that he has taken a base of Daily Production Records provided by the clients and he has not cross checked with excise records which matches with financial records. Here, the fraud was to show more sales and production by including production of 4-5 days of April of next year and that by Head office through oral instructions.

*d) **"Is auditor a watchdog and not a bloodhound"?***

i. The perception of auditor's duty with regards to detection and prevention of frauds and errors was initially based on the decision given in Kingston Cotton Mills Co. (1896) case.

*ii. The judge summed up auditor's duty by stating, **"Auditor is a watchdog, not a bloodhound."***



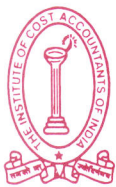


DISCIPLINARY DIRECTORATE

- iii. *However, NFRA Chairman R Sridharan stated that the phrase that the "auditor is a watchdog and not a bloodhound" is a serious misconception.*
- iv. *The Companies Act, 2013, has built in substantive provisions regarding audit and auditors into the statute.*
- v. *All accounting and auditing standards were now part of subordinate legislation. The auditor's duties were now comprehensively detailed in the law. This includes responsibilities to obtain reasonable assurance (defined as a high, but not absolute, level of assurance) that the financial statements taken as a whole are free from material misstatement, whether caused by fraud or error (SA 240).*
- e) *Point no.10 page 116 clearly reads that the auditors have relied upon production details of the official DPR maintained by the company and the same was certified by the statutory auditors, incorporated in financial statement. Further, the company has submitted similar details to Excise authorities in form of Excise Returns – ERs which matches with DPRs. Question here is how an auditor go on cross verifying one data with other types of data such as working or non-working of Kiln on a particular day, linking of electricity consumption and production etc. There is no doubt that professional accountant is capable to unearth such things when he is given a specific task of forensic Audit and not in case of regular audits.*
- f) *Here, it may be well understood that the cost auditor is not trying to pass the buck. He is merely referring the fact that DPRs have been checked and validated through auditing processes and he has relied upon the professional's work.*
- g) *Point not 11 on page no – 116 clearly highlights that there were instruction of corporate office to meet the production targets.*
- h) *Capacity of Kiln was 3000 TPD if we take 25 working days in a month, production could be around 75,000 Ton. Here the quantity mismatch is of 3008 (actual production of Clinker as per records – 8782 Vs prod. as per DPR 11800). Thus, there is difference of 4.01 % (3008/7500) [refer page 103]. This can't be treated as significant difference."*



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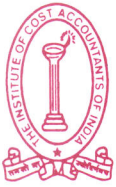
21. In the same meeting of the Committee held at Kolkata on 8th September 2021 the learned members noted the observation made by one of the learned members of the Disciplinary Committee that the difference in the quantity of production may not be very significant but there has been negligence on the part of the respondent firm which has been accepted by CMA B. Kumar, authorized representative of the respondent firm during the course of his submissions made on 28th August 2021. The Committee also noted that negligence has to be distinguished from fraud. The Committee was also of unanimous opinion that the respondent firm may have been negligent no doubt but it has not committed any fraud or made any financial gains out of it. The Committee also felt that the manner the cost audit had been conducted by the respondent firm by resorting to and relying upon DPRs which were prepared and authenticated by CCI without actually verifying and examining the DPRs of clinker with the stock register to check the correctness of the figures in the DPRs, the same speaks of sheer negligence by the cost auditor.

Findings of the Committee

22. The Disciplinary Committee after going through the complaint of the complainant, the various submissions made by the respondent from time to time, both verbal and written, the rejoinder of the respondent and the documents and records available with the Disciplinary Committee, the Committee has noted the following findings:
- The statement of Shri B. Venkateswara Rao, cost auditor and Partner of the respondent firm that "We have conducted our cost audit in good faith" do not hold any water as the respondent firm has merely relied upon DPRs and did not examine all cost records of CCI, Tandur unit before finalizing the audit report
 - The respondent has not been able to produce any audit programme of the cost audit that was conducted at the CCI, Tandur unit.
 - The respondent had admitted its guilt and requested the Committee to take a lenient view in the matter. He further stated that they would be more careful in carrying out audit assignments so that such omissions do not occur in future.



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ORDER

23. The Committee is of the view that being the cost auditor of a public sector undertaking like Cement Corporation of India (CCI) should have been all the more careful and cautious in undertaking the cost audit since the society casts a lot of obligation on the professionals and any dereliction of duty leading to mismatch of crucial figures may lead to shaking of confidence on the professionals. It is really of no consequence whether the mismatch in figures is material or not. Thus, the Cost Auditor has erred in his official duty and this tantamount to dereliction of duty and the respondent is guilty of violation of the following:

- Clause (7) of Part I of Second schedule to the CWA, Act, 1959 &
- Clause (8) of Part I of Second schedule to the CWA, Act, 1959

24. It is therefore felt necessary to recommend deterrent punitive action against the cost auditor and the Committee unanimously proceeds to pass the following order under sub-section (3) of Section 21B of the Cost and Works Accountants Act, 1959 against Shri B. Venkateswara Rao, the signing partner of cost audit report of CCI for the FY 2010-11 & 2011-12:

- (a) Reprimand
- (b) Impose a fine of Rs 50,000/- (Rupees Fifty thousand)

To be paid within 30 days from the date of service of the order. If the fine is not paid, the name of Shri B. Venkateswara Rao, the signing partner shall stand removed from the Register of Members for a period of one year.

Biswarup Basu
25.11.2020
CMA Biswarup Basu
PRESIDING OFFICER

