The Institute of Cost Accountants of India

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

Final order number: ICMAI/BOD/2026/77

Complaint number	Com/21-CA(152)/2024
In the matter of	CMA Rajubhai Kantilal Patel (M/14115)[Complainant] Vs. CMA Kshitij Shah (M/30316) [Respondent]
Date of Hearing	As per records and order sheet
Date of order	25th November, 2026

CORAM:

1	Shri P.K. Pujari, IAS (Retd)	Presiding Officer
2	CMA Avijit Goswami	Member

PRESENT IN HEARINGS

1	CMA(Dr) Hemant Kumar Sindhwani	Director (Discipline)

1. The Disciplinary Directorate received a complaint in Form I dated 26th December, 2024, accompanied by the prescribed complaint fee, from CMA Rajubhai Kantilal Patel bearing Membership No. 14115 (hereinafter referred to as the "Complainant"), against CMA Kshitij Shah bearing Membership No 30316 (hereinafter referred to as the "Respondent Firm") containing certain allegations against the respondent falling under various provisions of the Cost Accountants Act, 1959. The said complaint is being dealt with under Section 21 of the Act, read with Rule 3 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").
2. The Complaint comprises thirty Seven(37) pages including annexure vide which complainant has alleged that the Respondent while being practicing Cost Accountant, was shown as a full-time employee of M/s N. D. Birla & Co. and had simultaneously represented himself as the proprietor of M/s Kshitij J. Shah & Co.

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

1	Name of the Complainant: (With membership number, if member of Institute of cost Accountant of India)	CMA Rajubhai Kantilal Patel M-14115
2	Name of the member/ firm Against whom complaints is being made: (with membership Number/ registration number of the firm, if Known)	Kshitij Shah Membership No. 35524
3	Latest address of the complainant for communication	314, Phoenix Complex, Nr. Suraj Plaza, Sayajiugunj, Vadodara- 390020
4	Last Available Professional address of the member or the firm against whom the complaints is made	Kshitij J. Shah & Co., 65, Shivalik Bunglows, Anandnagar Cross Roads, Satellite, AHMEDABAD 380015
5	Particulars of allegation(s) Serially numbered together with corresponding clause/part of the relevant schedule(s), or particulars of allegation(s) serially numbered together with clause /part of the relevant scheduled(s) under which the alleged acts commission or omission or both would fall.	As per Annexure -1
6	Particulars of evidence(s) adduced in support of the allegation(s) made	1. Tender copy of Northern Coalfields Ltd 2. Work Order copy of M/s N D Birla & Co. 3. Tender Documents showing Mr. Kshitij Shah full time Assistant of M/s N D Birla & Co. 4. Membership & Certificate of Practice Details of Mr. Kshitij Shah from ICMAI Website 5. Other relevant documents
7	Name(s) of person who have knowledge of the facts of the case	Shri G.K. Narang, Chief of Internal Auditor, Northern Coalfields Ltd.

3. The complaint dated 26th December, 2024 was scrutinized by the Disciplinary Directorate. Upon scrutiny, it was found to be in order and registered as Complaint No. Com/21-

CA(152)/2024 for processing in accordance with Chapter III of Rules, 2007. The Complainant was informed of its registration vide acknowledgement dated 6th January, 2025.

4. The Complaint dated 26th December, 2024 along with annexures comprising thirty Seven(37) pages, was duly forwarded to the respondent vide letter No. G/DD/Com-C-152/1/01/2025 dated 7th January, 2025, in terms of sub-rule (3) of Rule 8 of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 with a request to submit his written defense statement within 21 days from the date of service of this letter.

5. The respondent, vide communication dated 24th January, 2025 (served on 27th January, 2025) has submitted his defense written submission consisting (02) pages, which is reproduced below:

Quote

To,
Shri CMA RK Jain,
Director (Discipline),
The Institute of Cost Accountants of India,
CMA Bhavan, 3 Institutional Area, Lodhi Road,
New Delhi - 110 003

Date: 24th January, 2025

Sub: Complaint No. Com/21-CA(152)/2024 by Shri Rajubhai Kantilal Patel [Complainant] Vs CMA Kshitij Shah (M/30316) [Respondent]

Dear Sir,

I am in receipt of your letter Ref No: G/DD/Com-C-152/1/01/2025 dated January 7, 2025, regarding allegations of professional misconduct against me submitted by CMA Rajubhai Kantilal Patel.

I submit that I am a law-abiding citizen. I have never been indulged in any kind of professional misconduct. I am obeying the rules and code of conduct of the Institute properly and while applying for COP/COP renewal, I have not made any wrong declaration.

Moreover, I wish to categorically deny all allegations made in the complaint. I am an Associate Member with Membership No. 30316 and am in a full-time independent practice that entitles me to serve various Corporates as well as other Cost Accounting Firms whoever approaches me seeking advisory and consultancy services.

I am not an employee of M/s ND Birla & Co., nor did I receive (or agreed to receive) any remuneration / commission / fees or part of the profit from M/s N.D. Birla & Co., for M/s Northern Coalfields Ltd. or any other company, as alleged by the complainant without providing any evidence to support his claim.

Board of Discipline

The complainant, who is neither an auditor nor an aggrieved party, has no locus standi in this matter.

I respectfully request the Directorate to dismiss his baseless complaint with heavy cost. I reserve the right to appear before the issuance of the final order. I assure you of my full cooperation in the proceedings and request an opportunity to present my case further if required.

Thanking you,
Yours faithfully,
CMA Kshitij Shah
Membership No. 30316
Unquote

6. The written statement comprising two (02) page dated 24th January, 2025 submitted by the Respondent was forwarded to the Complainant vide letter No. G/DD/Com-CA(152)/2/01/2025 dated 29th January, 2025 calling upon him to submit a rejoinder in terms of Rule 8(4) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. In response, the Complainant, vide his letter dated 10th April, 2025, submitted a rejoinder comprising seventeen (17) pages, including annexures. The relevant extracts from the Complainant's rejoinder are reproduced below:

Quote

TO
DIRECTOR DISCIPLINE
ICMAI
NEW DELHI

Sub: Rejoinder reply in complaint No. COM-21/CA(152)/2024

Dear sir,
Point-wise rejoinder is as per below:

Point No 1:
I am not an employee of M/s N D Birla & Co., nor did I receive (or agreed to receive) any remuneration / commission / fees or part of the profit from M/s N.D. Birla & Co., for M/s Northern Coalfields Ltd. or any other company, as alleged by the complainant without providing any evidence to support his claim.

Reply: Reply: Mere statement with no supporting facts/documents.

Respondent is under full time employment with N D BIRLA & CO. and also as claimed by M/s N D BIRLA & CO under oath he has conducted cost audit of Northern Coalfields as a part of team assisting the firm M/s N D BIRLA & CO.

The respondent is under full time employment with N D BIRLA & CO as claimed under oath by M/s N D BIRLA & CO

Board of Discipline

Also the respondent himself has given his certificate of membership to M/s N D BIRLA & CO as membership certificate issued by ICMAI is a private document and is not available in public forum

The firm N D BIRLA & CO can only use certificate if provided by respondent. (Certificate as annexed)

Also even after knowing the fact that the firm N D BIRLA & CO has used his name as assistant under employyment in Coal India tender, he has not filed any FIR in local police for fraud done by M/s n d birla & co NOR the respondent has filed any complaint with ICMAI OR COAL INDIA SUBSIDIARY COMPANY M/S NORTHERN COAL FIELDS LTD. NO BONAFIDE ACTION HAS BEEN TAKEN BY RESPONDENT

On the basis of declaration by firm M/s N D BIRLA & CO stating the respondent as their employee, the firm has secured points in ranking as per tender and secured cost audit as a consequence.

It clearly proves:
The respondent has clearly given wrong declaration at the time of filing his forms for renewal of his Certificate of practice.

The respondent being paid assistant of M/s N D Birla & Co. should have been receiving remuneration in the form of salary/wages/commission/part of fees from Cost audit from the firm M/s N D Birla & Co.

Also the respondent has not surrendered his Certificate of Practise and joined as Assistant in the firm M/s N D Birla & Co. from 01.04.2017.

It is very much evident that the respondent in criminal conspiracy with M/s N D Birla & Co. has grabbed cost audit tender by showing fake fraudulent documents and undertaking of showing fake assistants who are not in the firm of M/s N D BIRLA & CO. and defrauded Govt PSU M/s Northern coalfields Ltd.

Point No 2:
The complainant, who is neither an auditor nor an aggrieved party, has no locus standi in this matter.

Reply:
My Proprietorship firm is one the bidder in the said tender and posses locus standi as affected party by fraudulent documents uploaded by M/S ND BIRLA & CO and gaining monetary benefit by grabbing work order based on fraudulent documents. (Sr No 29 of bidders list as attached- Annexure 2)

All other allegations remains same as per original complaint.

DATE: 10.04.2025
Place Vadodara

Yours sincerely
RAJUBHAI KANTILAL PATEL
Unquote

Board of Discipline

7. **Investigation and Analysis**

a) The complainant did not furnish, along with the complaint, any documentary evidence substantiating the alleged employer–employee relationship between the Respondent and Firm N.D. Birla & Co. Accordingly, vide communication No. G/DD/Com-CA(152)/2025/C-03/04 dated 6th August, 2025, a notice under section 21C read with rule 8(5) of the said Rules was issued to the complainant, calling upon him to furnish, the documents relied upon in support of the allegation of the Respondent's full-time employment with the said firm, including any appointment or employment letter within 07 days of receipt thereof. In response, the Complainant submitted a one-page reply, vide an undated letter. However, no supporting documentary evidence establishing the alleged employer–employee relationship accompanied the reply. In his submission, the Complainant relied upon what he described as the approach adopted by the Directorate in Complaint Nos. Com/21-CA(108)/2022 and Com/21-CA(109)/2022 and requested that a similar approach be adopted in the present matter. The relevant submission of the complainant is reproduced here below:

Quote

CASE NO: COM/21-CA(152)/2024

To
Director Discipline
ICMAI
NEW DELHI

Sub: Reply to your letter dated 06.08.2025

Dear sir,
I am shocked on receipt of your letter seeking employment letter issued by Firm to respondent.

I would like to bring to your notice that in case NO. Com/21-CA(108)/2022 & Com/21-CA(109)/2022, Director discipline has interpreted associates/employees/ on rolls as being under employment of firm.

I request Director Discipline to strictly adhere to precedents and interpret the word associated as under employment as done in case NO. Com/21-CA(108)/2022 & Com/21-CA(109)/2022 without any employment letter issued by respondent firm in case NO. Com/21-CA(108)/2022 & Com/21-CA(109)/2022.

Also Director Discipline is well aware that if a Cost accountant is in practice he cannot take employment simultaneously.

Also Director discipline as done in case NO. Com/21-CA(108)/2022 & Com/21-CA(109)/2022, should investigate the matter by writing letters to Coal India

Board of Discipline

subsidiary as well as the firm and confirm whether the respondent was employee of firm or not. If this is not done by Director Discipline it will deviate the principles of natural justice and law of precedents set fourth & investigation methodology as done in case no 108 and 109 by Director Discipline office.

I request Director Discipline to give me justice as given to complainant in case NO. Com/21-CA(108)/2022 & Com/21-CA(109)/2022and form opinion of guilty and put the matter before Disciplinary Committee as done in case NO. Com/21-CA(108)/2022 & Com/21-CA(109)/2022.

Awaiting your Prima facie opinion of guilty.

Yours sincerely
R K PATEL M-14115
Unquote

b) During the course of Investigation, Director (Discipline) issued Notice under rule 8(5) of the Rules, 2007 dated 13th October, 2026 and asked certain queries from respondent. The respondent submitted the reply of queries vide communication dated 31st October, 2026. Queries raised during the investigation and reply of respondent is tabulated here below;

S. No.	Query	Response
1	Nature of your association with M/s N.D. Birla & Co. (FRN/000028) under which your name was so included in the aforesaid bid documents; and	I am neither an employee, nor on retainership, nor a partner, nor a branch-in-charge of M/s N.D. Birla & Co. (FRN 000028). There was only a verbal understanding between us that we may collaborate on certain professional assignments on a case-to-case basis, if and when mutually agreed. No written agreement company-specific, or tender specific, or otherwise was ever executed in this regard.
2	Whether you were aware that M/s N.D. Birla & Co. (FRN/000028) had included your name in their bid documents submitted against Bid No.	I specifically state that no written consent / communication happened between us for any particular company or assignment.

S. No.	Query	Response
	852440, pursuant to Tender No. NCL/SGR/IAD/2022-23/CostAuditor/64 dated 15th August 2022.	It appears that, M/s N.D. Birla & Co. included my name as their "associate" in the said Bid by relying on the above-mentioned verbal understanding.

c) A separate matter concerning M/s N.D. Birla & Co. (FRN/000028) is also under consideration. In the said matter, Director (Discipline) issued Notice under rule 8(5) of the Rules, 2007 dated 13th October, 2026 and asked certain queries from respondent. The respondent submitted the reply of queries vide communication dated 31st October, 2026. Queries raised during the investigation and reply of respondent is tabulated here below;

S. No.	Query	Response
1	State the precise nature, basis and period of association, if any, of each of the aforesaid professionals (whose name was included in the bid) with M/s N.D. Birla & Co. during the relevant period, clearly specifying whether such association was by way of employment, retainership, engagement on an assignment-to-assignment basis or under any other arrangement.	Our Association with CMA Kshitij Shah is approximately of 10 years. Nature of association was on case to case basis with respect to any assignment on our request as agreed mutually
2	Clarify the capacity or status in which the names, particulars and professional credentials of the aforesaid members were included in the tender/bid documents under the category of "Fully Qualified Assistants."	It was clarified to NCL during interview that our associates providing their services to us on case to case basis.
3	State whether the prior consent or authorisation of each of the aforesaid	CMA Kshitij Shah have forwarded their authorisation to inclusion of their name in

S. No.	Query	Response
	professionals was obtained before including or using their names, particulars and/or professional credentials in the tender/bid documents. If so, furnish copies of such consent or authorisation, together with supporting documentary evidence.	NCL tender as our associate to you by email in their reply to your notice in this regard
4	In case above given names of the members was employed with your Firm during the relevant period, furnish a copy of the appointment/employment letter issued to them, along with documentary evidence of the acceptance/acknowledgement thereof.	Above professionals was not employed in our firm & provided his services on case to case basis.

The Respondent and the firm (M/s N.D. Birla & Co.) have consistently stated that CMA Kshitij Shah was not an employee of the Firm but was associated on an assignment/project basis. Accordingly, his non-employment with the Firm during the relevant period remains an undisputed fact on record.

8. <u>Comments and Findings of the Disciplinary Directorate</u>

a) Upon examination of the compliant, the Respondent's written statement in defence and the material available on record, the issue for consideration is whether the Respondent, while holding a Certificate of Practice and practising as proprietor of M/s Kshitij J. Shah & Co., was simultaneously in full-time employment of M/s N. D. Birla & Co.

b) The Respondent has categorically denied the existence of an employer–employee relationship with the said firm. He has explained that his association was strictly on a case to case basis.

c) The complainant has not furnished the supporting documents sought by the Directorate to

Board of Discipline

substantiate the allegation of full-time employment. Further, the material otherwise available on record is insufficient to establish that the Respondent was in full-time employment of the said firm during the relevant period.

d) In this context, reference has been made to the findings/orders of the Disciplinary Committee in Complaint Nos. Com/21-CA(108)/2022 and Com/21-CA(109)/2022 concerning the inclusion of associated professionals in tender documents for the empanelment and selection of Cost Auditors of South Eastern Coalfields Limited and Coal India Limited. The reasoning relied upon in those matters recognises that, in the absence of a definition of the term "associate" in the applicable tender conditions or contemporaneous Institute guidelines governing such categorisation, professional association could not necessarily be equated with full-time employment of firm/bidder. An acknowledged association on a retainer, assignment-to-assignment or similar basis could, depending upon the applicable tender conditions, fall within the description of an associate.

e) A perusal of the complaint indicates that the present matter relates to the empanelment and selection of Cost Auditors for Northern Coalfields Limited for the year 2022–23 to 2024-25. It is observed that the standard tender documents adopted by Northern Coalfields Limited and its co-subsidiaries did not, at the relevant time, define the term "associate". Further, the Institute's Guidelines for Members on Use of Firm Name and Submission of Tender Documents dated 27th February, 2025 were not in force during the relevant period. Accordingly, the requirements subsequently introduced by those Guidelines cannot, by themselves, form the basis for establishing misconduct in respect of an earlier representation. Such representation must be examined with reference to the provisions and tender conditions applicable at the relevant time.

f) To the extent that the material facts and applicable tender conditions are comparable, the reasoning in the aforesaid decisions is relevant to the present matter. It supports the view that the description "associate" does not, by itself, conclusively establish the nature of the underlying professional relationship and may encompass a person engaged on a retainer, assignment-to-assignment or similar basis. Consequently, the disclosure of a professional association in tender documents cannot, without further supporting evidence, be treated as proof of an employer–employee relationship.

g) Accordingly, the inclusion of the Respondent's name in the bid documents submitted by

M/s N.D. Birla & Co. in the absence of cogent evidence demonstrating the nature and terms of the alleged employment is insufficient to establish that the respondent was full-time employee of said firm. The material available on record does not provide a sufficient basis to reject the Respondent's explanation that his association was limited to providing professional assistance on case-to-case basis.

h) In view of the above facts and circumstances, it is found that the material available on record does not establish that the Respondent was simultaneously in full-time employment with M/s N.D. Birla & Co. while holding a Certificate of Practice and practising as a Cost Accountant. Accordingly, the allegation of simultaneous full-time employment is not substantiated.

9. Findings and Order of the Board of Discipline

a) The Board of Discipline has carefully considered the complaint, written statement of the Respondent, comments of the Director (Discipline), documents and other material available on record, and the provisions of the Cost Accountants Act, 1959 and the Rules framed there under and observes that the Respondent has denied being in full-time employment of M/s N. D. Birla & Co. and has stated that his association with the said firm was on assignment to assignment basis. The complainant has also failed to submit any supporting documents to substantiate the allegation of full-time employment.

b) The Board further notes the reasoning relied upon in the findings/orders of the Disciplinary Committee in Complaint Nos. Com/21-CA(108)/2022 and Com/21-CA(109)/2022, namely that, in the absence of an express definition in the applicable tender documents or specific Institute guidelines then in force, the term "associate" was not necessarily confined to a full-time employee and could encompass a professional associated on a retainer, case to case or similar basis.

c) Upon an independent assessment of the record, the Board agrees with the findings of the Director (Discipline) that the mere inclusion of the Respondent's name as a "qualified assistant" in the firm's tender documents does not, by itself, conclusive evidence of full-time employment or establish an employer–employee relationship with the bidding firm. The nature of the association must be determined from the substance of the arrangement and the evidence considered as a whole. In the present matter, no cogent material concerning employment terms, payment of salary, payroll status or other relevant

The Institute of Cost Accountants of India
Board of Discipline

circumstances has been brought on record sufficient to substantiate the alleged employer–employee relationship.

d) Accordingly, the Board finds that the material available on record does not establish a prima facie case of professional or other misconduct against the Respondent in respect of the allegation of simultaneous full-time employment while continuing in practice. The Board, therefore, agrees with the opinion of the Director (Discipline) that allegation against the Respondent is not substantiated by the material available on record. This conclusion rests on an assessment of the available evidence and not merely on the complainant failure to furnish further documents.

e) Consequently, in exercise of powers conferred under section 21A(4) of the Cost Accountants Act, 1959, read with Rule 9(3)(a) of the Cost and Works Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Board hereby orders that the proceedings against CMA Kshitij Shah (M/30316) be dropped, and the case stands closed.

f) The complaint is, therefore, disposed of accordingly.

CMA Avijit Goswami

(Member)

Institute of Cost Accountants of India
Board of Discipline

Shri P.K. Pujari, IAS (Retd)

(Presiding Officer)

Place: New Delhi
Date: 25th November, 2026

Distribution under Rule 15(3) of the Rule

1) Director(Discipline), The Institute of Cost Accountants of India
2) Complainant, CMA Rajubhai Kantilal Patel (M/14115)
3) Respondent, CMA Kshitij Shah (M/30316)