The Institute of Cost Accountants of India

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

Final order number: ICMAI/BOD/2026/80

Complaint number	Com/21-CA(155)/2024
In the matter of	CMA Rajubhai Kantilal Patel (M/14115)[Complainant] Vs. CMA Rahul Modh (M/35524) [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 Rahul Modh bearing membership number 35524, (hereinafter referred to as the "respondent") containing certain allegations against the respondent falling under various provisions of the Cost Accountants Act, 1959.
2. The Complaint comprises thirty six (36) 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 Modh Rahul & 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	CMA Rajubhai Kantilal Patel Membership No.14115

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	India)	
2	Name of the member/ firm Against whom complaints is being made: (with membership Number/ registration number of the firm, if Known)	CMA Rahul Modh Membership No. 35524
3	Latest address of the complainant for communication	314, Phoenix Complex, Nr. Suraj Plaza, Sayajigunj, Vadodara- 390020
4	Last Available Professional address of the member or the firm against whom the complaints is made	Sf- 204, Ratandeep Flora, Opp.Sv Square, New Ranip, Ahmedabad- 382470 M-9909302322
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. Rahul Modh As Full Time Assistant of M/s N D Birla & cCo. 4. Membership & Certificate of Practice Details of Mr. Rahul Modh 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 above mentioned 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(155)/2024 for processing in accordance with Chapter III of

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Rules, 2007. The Complainant was informed of its registration vide acknowledgement dated 6th January, 2025.

4. The Complaint dated 26th December, 2024 along with annexure, was duly forwarded to the respondent vide letter No. G/DD/Com-C-155/1/01/2025 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 20th January, 2025, has submitted his defense written submission consisting (01) page, which is reproduced below:

Quote

Date: 20th January, 2025
To,
Shri CMA R K Jain,
Director (Discipline),
The Institute of Cost Accountants of India,
CMA Bhavan, 3 Institutional Area,
Lodhi Road, New Delhi – 110 003

Sub: Complaint No. Com/21-CA (155)/2024 – by Shri Rajubhai Kantilal Patel [Complainant] Vs CMA Rahul Modh (M/35524) [Respondent]

Dear Sir,

I am in receipt of your letter Ref No: G/DD/Com-C-155/01/2025 dated January 7, 2025, regarding allegations of professional misconduct against me submitted by Shri Rajubhai Kantilal Patel.

I wish to categorically deny all allegations made in the complaint. I am a Fellow Member with Membership No. 35524 and am in full-time practice. My professional engagements involve providing advisory and consultancy services to various corporates bodies, firms including Cost Accounting Firms on a case-to-case basis. I am not an employee of M/s N D Birla & Co., as alleged by the complainant, and no evidence has been provided to support this claim.

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 this baseless complaint. 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,

The Institute of Cost Accountants of India
Board of Discipline

Yours faithfully,
CMA Rahul Modh
Membership No. 35524
Unquote

6. The written statement comprising one (01) page dated 20th January, 2025 submitted by the Respondent was forwarded to the Complainant vide letter No. G/DD/Com-CA(155)/02/01/2025 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. The complainant, vide his letter dated 10th April, 2025 submitted his seventeen (17) pages rejoinder including fourteen pages annexure which is reproduced below.

Quote

TO
DIRECTOR DISCIPLINE
ICMAI
NEW DELHI

Sub: Rejoinder reply in complaint No. COM-21/CA(155)/2024

Dear Sir,

Point wise rejoinder is as per below:

Point No. 1:
I wish to categorically deny all allegations made in the complaint. I am a Fellow Member with Membership No. 35524 and am in full-time practice. My professional engagements involve providing advisory and consultancy services to various corporates bodies, firms including Cost Accounting Firms on a case-to-case basis. I am not an employee of M/s N D Birla & Co., as alleged by the complainant, and no evidence has been provided to support this claim.

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.

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

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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 employment 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:
1. The respondent has clearly given wrong declaration at the time of filing his forms for renewal of his Certificate of Practice.
2. 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.
3. Also the respondent has not surrendered his Certificate of Practice 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: 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 remain same as per original complaint.

Date: 10.04.2025
Place: Vadodara
Yours sincerely,
RAJUBHAI KANTILAL PATEL
Unquote

7. The complainant did not furnish, along with the complaint, any documentary evidence substantiating the alleged employer–employee relationship between the Respondent and N.D. Birla & Co. Accordingly, vide communication No. G/DD/Com-CA(155)/2025/C03/04

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, within 07 days of receipt thereof, 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. However, no supporting documents have been provided from the complainant to date. In these circumstances, the matter is being considered on the basis of the material available on record.

8. **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(155)/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(155)/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.

Board of Discipline

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 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	My association with M/s N.D. Birla & Co. was not as an employment. It was a purely professional association on a case-to-case basis as an independent professional Association or Independent Consultant, taken up from time to time as per mutually agreed conditions. I held no standing appointment as employee with the firm,

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S. No.	Query	Response
		and I have not an employee, salaried retainer, branch-in-charge of the said firm. This is consistent with my earlier response dated 20th January 2025. As per the Guidelines of the institute both are being member of the Institute can take assignment of the CMA related services/Works. This association was fully compliant to the guidelines of the institute.
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. 852440, pursuant to Tender No. NCL/SGR/IAD/2022-23/CostAuditor/64 dated 15th August 2022.	M/s N.D. Birla & Co. had approached me for the consultancy cum Association work to apply tender of Northern Coalfields Limited, and I had given my acceptance to undertake such work on a mutually agreed terms, in consultant capacity, as an independent practitioner. Hence, at the outset, my position with the N. D. Birla & Co. was not as an employee but as an independent consultant. The letter of N. D. Birla & Co. and my acceptance on it dated 17th June, 2022 is attached herewith for your ref.

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	Our Association with Rahul Modh is

S. No.	Query	Response
	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.	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 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.	Consent letter of Rahul Modh is attached herewith for your kind perusal.
4	In case above given names of the members was employed with your Firm during the relevant period, furnish a copy of the	Above professionals was not employed in our firm & provided his services on case to case basis.

S. No.	Query	Response
	appointment/employment letter issued to them, along with documentary evidence of the acceptance/acknowledgement thereof.	

The Respondent and the firm (M/s N.D. Birla & Co.) have consistently stated that CMA Rahul Modh 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.

9. **Comments and Findings of the Disciplinary Directorate**

a) Upon examination of the Information, 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 Modh Rahul & 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 as an independent professional resource assistant.

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

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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.

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Board of Discipline

10. **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 informant 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 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 Informant's 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

Kolkata Office: CMA Bhawan, 12, Sudder Street, Kolkata - 700016
Noida Office: CMA Bhawan, C-42, Sector - 62, Noida - 201309, Phone: 0120-2403305/06

(Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Board hereby orders that the proceedings against CMA Rahul Modh (M/35524) be dropped, and the case stands closed.

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

CMA Avijit Goswami

(Member)

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 Rahul Modh (M/35524)