The Institute of Cost Accountants of India

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

Final order number: ICMAI/BOD/2026/81

Complaint number	Com/21-CA(157)/2025
In the matter of	CMA Rajubhai Kantilal Patel (M/14115) [Complainant] Vs. M/s N D Birla & Co. (FRN: 000028) [Respondent]
Date of Hearing	As per records and order sheet
Date of order	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 is in receipt of a complaint in Form I dated 23rd April, 2025 accompanied by the prescribed complaint fee, from CMA Rajubhai Kantilal Patel bearing Membership No. 14115 (hereinafter referred to as the "Complainant"), against M/s N D Birla & Co. bearing FRN number 000028, (hereinafter referred to as the "respondent") 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, comprising 85 pages including annexure vide which Complainant has alleged that M/s M/s N D Birla & Co. submitted incorrect particulars relating to the firm's name, constitution and employee details, and made misrepresentations tender process for appointment of Cost Auditor of NCL with the intention of securing the tender through

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fraudulent means. The particulars of the complaint, as set out in Form I, are reproduced herein below verbatim:

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)	N D BIRLA & CO FRN : 000028 (herein referred as respondent firm)
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	A-3, Nirant Appartment, Opp: Townhall, Near Karnavati Hospital, Ellis Bridge, AHMEDABAD 380006
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 total 7 allegations
6	Particulars of evidence(s) adduced in support of the allegation(s) made	Annexure-1 as attached
7	Name(s) of person who have knowledge of the facts of the case	1. Shri G K NARANG Chief of Internal Audit Northern Coalfields Ltd 2. CMD Northern coalfields ltd 3. CVO Northern coalfields ltd

3. The Complainant has submitted annexure 1 along with Complaint vide which he alleged that the respondent has filed tender in NCL and submitted fraudulent, forged and fake

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documents to gain monetary benefits and securing audit through unfair means and made the following three allegations against the respondent;

a) Allegation No. 1: Fake & Fraudulent List of Employees
b) Allegation No. 2: Use of Name not approved by Council at the time of filing tender
c) Allegation No. 3: Fraudulent Solicitation of Clients
d) Allegation No. 4: Bringing Disrepute to the Institute
e) Allegation No. 5: Clause (2) of Part I of the First Schedule of The Cost Accountant Act, 1959
f) Allegation No. 6: Clause (3) of Part I of the First Schedule of The Cost Accountant Act, 1959
g) Allegation No. 7: Clause (5) of Part I of the First Schedule of The Cost Accountant Act, 1959

4. The above Complaint was scrutinized by the Disciplinary Directorate. Upon scrutiny, it was found to be in order and registered as Complaint No. Com/21-CA(157)/2025 for processing in accordance with Chapter III of Rules, 2007. The Complainant was informed of its registration vide acknowledgement dated 7th May, 2025.

5. The Complaint dated 23rd April, 2025, was duly forwarded to the respondent vide letter No. G/DD/Com-C-157/2025/05/02 dated 7th May, 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. However, the Notice was returned undelivered by the postal authorities with endorsement "No such person name".

6. Thereafter, in order to ascertain the latest professional address of the Respondent, a notice under Rule 10(3) of the Rules, 2007 was issued to the Director (Membership). In response thereto, the Director (Membership), vide communication dated 26th May, 2025, furnished the updated professional address and e-mail address of the Respondent. Accordingly, the complaint dated 23rd April, 2025 was re-forwarded to the Respondent vide letter No. G/DD/Com-CA(157)/2025/R-02/05 dated 8th August, 2025, followed by reminder dated 19th November, 2025 calling upon the Respondent to submit a written statement in terms of Rule 8(3) of the Rules, 2007 within 21 days from the date of service of the said communication.

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7. The respondent, vide letter dated 3rd December, 2025 submitted his defense written submission consisting (01) page, which is reproduced here-below:

Quote

CMA (Dr) Hemant Sindhwani, Date: 03-12-2025
Director Discipline
The Institute Of Cost Accountants Of India,
CMA Bhawan, 3, Institutional Area,
Lodhi Road, New Delhi-110003

Dear Sir,
Subject:- Submission to Complaint No. Com/21-CA(157)/2025

My father expired recently and as result there is delay in our submission on above matter. I request to kindly condone the same. Our reply / Submission is as follows:-

1. Our team members/Associates have provided their services / consultancy as and when required on case to case basis. We have not shown them as our employees.
2. We deny all the allegations levelled against us in the above complaint as baseless.

Prayer:-

1. Confidential data of Coal India and its subsidiaries has been used unauthorised by Mr Raju Kantilal Patel without the prior approval / consent of respective board of directors.
2. Our complaint No Com/21-CA(151)2024 against CMA Rajubhai Kantilai Patel Is pending for undercutting of fees. He has filed complaints which are motivated due to above against us to simply harass us.
3. W appeal for dismissal of above complaint against us and suitable action against CMA Raju Kantilal Patel.

For N D BRILA and Co
Cost Accountants
Dinesh Kumar Birla
PARTNER
M. No. 7907

Unquote

8. The written statement dated 3rd December, 2025 submitted by the Respondent was forwarded to the Complainant vide letter No.G/DD/Com-CA(157)/C-03/07 dated 18th December, 2025 followed by reminder dated 15th April, 2026 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 13th April, 2026 submitted his (18) eighteen pages rejoinder including sixteen pages annexure. The relevant extracts from the Complainant's rejoinder are reproduced below:

Board of Discipline

Quote

REJOINDER
COMPLAINT NO: COM/21-CA(157)/2025

In the matter of
RAJUBHAI KANTILAL PATEL
VS
N D BIRLA & CO. (FRN : 000028)

To
Director Discipline
ICMAI
NEW DELHI

Dear Sir,
In reply to your letter Ref No.: G/DD/Com-CA(157)C-03/07/261 dated 18th December 2025, I file my rejoinder as per below:

Allegation 1: Fake & Fraudulent List of Employees

1. As per reply given by Mr Fenil Shah ((ICMAI M-37143) & ICAI MEMBERSHIP No. 141088) FRN 143571W) in ICAI Disciplinary case No. PR/703/2024/DD/44/2025, he has given below statement :

   1. **I am engaged in full-time independent professional practice, duly authorized to serve corporate entities and Cost Accounting Firms seeking advisory and consultancy services.**

   2. **I am not an employee of M/s N.D. Birla & Co., nor have I received or agreed to receive any commission, fees, or share in the profits from M/s N.D. Birla & Co. concerning M/s Northern Coalfields Ltd. or any other entity, as falsely alleged by the complainant.**

   From the above reply it is evident that Mr Fenil Shah whom the respondent firm claims to be assistant, is in full time independent CA practice. Also he has clearly mentioned that he has not given consent concerning tender of Northern Coalfields Ltd or any other entity for his name to be used as Qualified Assistant by N D Birla & Co..

2. Reply given by N D Birla & Co., vide letter dated 03.12.2025, states that our team members / Associates have provided their services /Consultancy as and when required on case to case basis. Which is reproduced below :

   1. **Our team members /Associates have provided their services / consultancy as and when required on case to case basis. We have not shown them as our employees.**

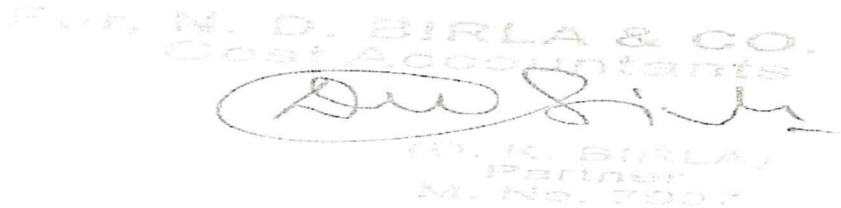
   From the above two points, it is very much evident that:
   1. Statements in Point no. 1 & 2 are contradictory to each other
   2. The respondent firm has used the name of Mr. Fenil Shah without his consent and he is not aware of the fact that his name is being used in Northern Coalfields Ltd as a qualified Assistant of Respondent firm.

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3. Also it is a matter of fact that A practicing Chartered Accountant cannot having independent practice cannot become a Assistant of A practicing CMA FIRM without forming Multidisciplinary Partnership firm.

Allegation No. 2: Name not approved by Council
The respondent firm has managing partner named Mr Dinesh kumar Birla having Membership NO 7907

Below is the seal used by respondent firm in all tender documents.



Also the respondent firm has been using the name D K BIRLA of Managing Partner along with wrong firm Registration No. 00028 (5 digit) instead of 000028 (six digit) in professional dealings makes stakeholders confuse about actual position of name and firm number which is not at all approved by council.

Vide RTI reference TICAI/R/E/25/00136, ICMAI has given information that there is no person named D K BIRLA in their records.(As attached)

Using Name D K BIRLA instead of full name Dinesh Kumar Birla is a significant deviation from list of members maintained by the Institute.

Also using wrong firm number is a significant deviation from list of firms maintained by the Institute.

Use of wrong Name of Managing partner and wrong firm number should not be condoned by Disciplinary Authority of the Institute.

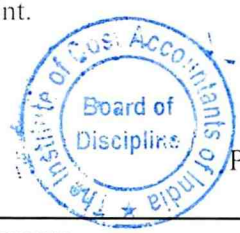
There is no reply given by Respondent firm to refute allegation No.2 in their reply dated 03.12.2025 which clearly means that they have accepted this allegation.

The above allegation no.1 & 2 clearly attracts:

Thus the above acts of Respondent firm clearly attract:
- **clause (3) of Part III of the First Schedule,**
- **clause (2) of Part IV of the First Schedule, and**
- **clause (1) of Part II of the Second Schedule of the Cost Accountants Act, 1959.**

All other allegations remain same as per original complaint.

Date: 13.04.2026
Place: Vadodara



Yours sincerely,
RAJUBHAI KANTILAL PATEL
Unquote

9. The Complainant, vide letter dated NIL (served on 4th May, 2026) submitted his additional rejoinder submission consisting (09) pages, which is reproduced here-below:

Quote

CASE NO COM 21 -CA (157)/2024
IN THE MATTER OF RAJUBHAI KANTILAL PATEL VS N D BIRLA & CO

TO
DIRECTOR DISCIPLINE
ICMAI
NEW DELHI

Sub: Rejoinder in CASE NO COM 21 -CA (157)/2024

Dear sir,
In continuation of earlier reply dated 13.04.2026, I would like to further submit:

The below sentence may be read as

3. **Also it is a matter of fact that A practicing Chartered Accountant cannot having independent practice cannot become a Assistant of A practicing CMA FIRM without forming Multidisciplinary Partnership firm.**

"3. Also it is a matter of fact that A practicing Chartered Accountant having independent practice cannot become a Assistant of A practicing CMA FIRM without forming Multidisciplinary Partnership firm."

Also for the statement

Also the respondent firm has been using the name D K BIRLA of Managing Partner along with wrong firm Registration No. 00028 (5 digit) instead of 000028 (six digit) in professional dealings makes stakeholders confuse about actual position of name and firm number which is not at all approved by council.

Vide RTI reference TICAI/R/E/25/00136, ICMAI has given information that there is no person named D K BIRLA in their records.(As attached)

Using Name D K BIRLA instead of full name Dinesh Kumar Birla is a significant deviation from list of members maintained by the Institute.

I submit below relying upon documents :
1. FORM CRA-2 OF COMPANY GSPC PIPAVAV POWER COMPANY LTD
2. RTI REFERENCE & REPLY TICAI/R/E/25/00135 & TICAI/R/E/25/00136

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I request your good office to kindly keep this letter on records for CASE NO COM 21 -CA (157)/2024.

Yours sincerely
RAJUBHAI KANTILAL PATEL
Unquote

10. **Investigation and Analysis**

a) 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 received from the 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 (M. No. 30316). CMA Anil Manoharlal Garg (M. No. 9874), CMA Sharuk khan Kureshi (M. No.39351) and CMA Rahul Modh (M.No.35524) is approximately of 10 years. Nature of association was that they provide their services / consultancy 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 above are our associates / team members providing their services to us on case to case basis.
3	State whether the prior consent or	Consent letters given by CMA Anil Garg

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S. No.	Query	Response
	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.	& CMA Rahul Modh are attached herewith for your kind perusal. CMA Sharukh khan Kureshi & CMA Kshitij Shah have forwarded their authorization to inclusion of their name in 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 were not employed in our firm & provided their services on case to case basis only.

b) A separate matter concerning CMA Kshitij Shah, Membership No. 30316, who was associated with M/s N. D. Birla & Co., 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 received from the 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	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).

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S. No.	Query	Response
	documents; and	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	In case association is other than employee whether the above mentioned firm had included your name in their bid documents submitted against Bid No. 852440, pursuant to Tender No. NCL/SGR/IAD/2022-23/Cost Auditor/64 with your consent if yes kindly provide the copy of the consent letter, if any.	I specifically state that no written consent / communication happened between us for any particular company or assignment. 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. I request that this reply be taken on record along with my earlier response dated 24 January 2025. I undertake to furnish any further information, clarification, or documents that the Directorate may require.

c) A separate matter concerning CMA Anil Manoharlal Garg, Membership No. 9874, who was associated with M/s N. D. Birla & Co., 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 28th October, 2026. Queries raised during the investigation and reply received from the respondent is tabulated here below.

S. No.	Query	Response

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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. has been for the last 10 years, was not one of employment, retainership or branch-in-charge. It was a purely professional association on a case-to-case basis, taken up from time to time as mutually agreed. I held no standing appointment with the firm. This is consistent with my earlier response.
2	In case association is other than employee whether the above mentioned firm had included your name in their bid documents submitted against Bid No. 852440, pursuant to Tender No. NCL/SGR/IAD/2022-23/Cost Auditor/64 with your consent if yes kindly provide the copy of the consent letter, if any.	M/s N.D. Birla & Co. approached me for being their Associate / Team Member to provide services/ consultancy when required on case-to-case basis during audit of Northern Coalfields Limited, and I gave my acceptance for such work on mutually agreed terms, as an associate / consultancy capacity, as an independent practitioner. Consent Letter attached herewith for your reference,

d) A separate matter concerning CMA Sharukhkhan Kureshi, Membership No. 39351, who was associated with M/s N. D. Birla & Co., 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 received from the 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	

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S. No.	Query	Response
	I respectfully clarify that I was neither an employee nor a salaried retainer, branch-in-charge or partner of M/s N. D. Birla & Co. The professional association between myself and the said firm was based on a reciprocal, case-to-case professional arrangement, whereby both parties could undertake or provide professional assignments to each other, as and when mutually agreed, depending upon the nature, scope and requirements of the respective assignments. Such an arrangement was as an independent professional Association or Independent Consultant, taken up from time to time as per mutually agreed conditions and assignment-specific and held no standing appointment and constitute regular employment, salaried retainership, partnership or any standing appointment with the firm. The nature, scope and terms of any individual assignment were subject to mutual understanding between the parties in each respective case. I further respectfully submit that both parties being members of the Institute and independent practicing Cost Accountants, were professionally entitled to undertake and provide assignments relating to Cost Accountancy services and allied professional work, subject to the applicable provisions of the Cost Accountants Act, 1959, the Cost and Works Accountants Regulations, 1959, and the professional guidelines, standards and directions issued by the Institute from time to time. Accordingly, the reciprocal, case-to-case professional arrangement between the parties was understood and undertaken in their respective independent professional capacities, subject to mutual agreement and the applicable professional and regulatory requirements. The said arrangement was not intended to create any relationship of employment, salaried retainership, partnership or standing appointment between the parties. Accordingly, I respectfully request that my professional relationship with M/s N. D. Birla & Co. be considered in its proper context, having regard to the reciprocal and case-to-case nature of the professional arrangements between the parties. My role and responsibility in the specific matter referred to in the notice may kindly be determined on	

S. No.	Query	Response
	the basis of the actual facts, the nature and scope of any assignment mutually agreed upon, and the relevant supporting documentary evidence, without attributing to me any employment status, specific assignment or responsibility that I did not undertake or accept.	
2	In case association is other than employee whether the above mentioned firm had included your name in their bid documents submitted against Bid No. 852440, pursuant to Tender No. NCL/SGR/IAD/2022-23/Cost Auditor/64 with your consent if yes kindly provide the copy of the consent letter, if any.	
	I respectfully submit that M/s N. D. Birla & Co. had approached me in connection with the proposed professional consultancy assignment relating to the Northern Coalfields Limited tender. Upon discussions between the parties, a mutual understanding was arrived at for undertaking the proposed professional assignment on mutually agreed terms and conditions, in my independent professional capacity as a practicing Cost Accountant and consultant. I further clarify that my consent to the proposed professional association and assignment was mutually conveyed and agreed upon between the parties through discussions, and no separate formal written agreement or independent consent letter was executed in this regard. The proposed arrangement was understood to be on a case-to-case basis and in the respective independent professional capacities of both parties, without creating any relationship of employment, salaried retainership, partnership or standing appointment with M/s N. D. Birla & Co. Accordingly, the understanding between the parties was for a professional consultancy arrangement on mutually agreed terms and conditions, and not for any regular employment or salaried engagement with the said firm. I respectfully request that the nature of the said professional understanding and my role in the matter be considered in its proper context, having regard to the actual facts and circumstances and the relevant records available with the parties.	

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S. No.	Query	Response
	I further clarify that the said professional arrangement was specific to the proposed consultancy association and did not, by itself, establish that I had undertaken or performed the actual work relating to the Northern Coalfields Limited tender. My role and involvement may kindly be assessed with reference to the actual terms of the arrangement and the relevant contemporaneous records. I further submit that the above clarification is intended to explain the nature of the professional understanding between the parties and the circumstances surrounding the proposed association. I respectfully leave the assessment of the relevant tender documents and the extent of my actual involvement to the independent consideration of the competent authority. I respectfully submit that the above explanation is intended to clarify the circumstances and professional understanding under which my name was proposed for inclusion in the tender-related documents. I do not intend to make any unsupported allegation or adverse assertion against M/s N. D. Birla & Co. or any other professional. I leave the assessment of the relevant documents and circumstances to the independent consideration of the competent authority.	

e) A separate matter concerning CMA Rahul Modh, Membership No. 35524, who was associated with M/s N. D. Birla & Co., 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 received from the 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	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

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S. No.	Query	Response
	documents; and	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, 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	In case association is other than employee whether the above mentioned firm had included your name in their bid documents submitted against Bid No. 852440, pursuant to Tender No. NCL/SGR/IAD/2022-23/Cost Auditor/64 with your consent if yes kindly provide the copy of the consent letter, if any.	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.

f) Further Director (Discipline) issued Notice under section 21C read with rule rule 8(5) of

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the Rules, 2007 dated 13th November, 2026 and asked certain queries from CMA Fenil Paresh Shah. In response thereto, CMA Fenil Paresh Shah (M/37143) submitted the reply of queries vide communication dated 19th November, 2026. Queries raised during the investigation and reply received is tabulated here below.

S. No.	Query	Response
1	Nature of your association (Employment, retainership, engagement on assignment to assignment basis, branch in charge or any other arrangement) with M/s N. D. Birla & Co. (FRN/000028) under which your name was so included in the aforesaid bid documents; and	I have been providing taxation services to M/s N. D. Birla and Co on a consultancy basis which differs from case to case.
2	Whether the above mentioned firm had included your name in their bid documents submitted against Bid No. 852440, pursuant to Tender No. NCL/SGR/IAD/2022-23/Cost Auditor/64 with your consent if yes kindly provide the copy of the consent letter, if any.	Regarding the Northern Coalfields Limited tender, we were engaged as consultants. The documents are attached herewith.

g) The Respondent Firm and all four professionals (whose names were included in the bid) have consistently stated that they were not employees of the Firm but were associated on an assignment-to-assignment basis. Accordingly, their non-employment with the Firm during the relevant period remains an undisputed fact on record.

11. **Comments and Findings of the Discipline Directorate**

a) Upon examination of the Complaint, the Respondent's written statement dated 3rd December, 2025, its further response dated 31st October, 2026, the complainant's rejoinder and the material gathered during investigation have been examined. The

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Respondent's objections concerning confidential data of Coal India and its subsidiaries has been used by the Complainant without prior approval/consent of respective board of directors have also been considered.

b) The present matter has been registered and examined as a Complaint under Section 21 of the Act read with Rule 5 of the Rules. The Respondent has acknowledged its participation in the tender and explained the capacity in which the professionals concerned were associated with it. Accordingly, the allegations have been examined on the basis of the material available on record, including the Respondent's admissions and explanations and Complainant's rejoinder. There are seven allegations against the respondent. Allegation wise comments and finding are set out below.

Allegation No.1: Fake and Fraudulent List of Employees

(i) It is alleged that, while participating in the tender floated by Northern Coalfields Limited, the Respondent Firm included the names of CMA Kshitij Shah (M/30316), CMA Anil Manoharlal Garg (M/9874), CMA Sharukhkhan Kureshi (M/39351) and CMA Rahul Modh (M/35524) in the category of "Fully Qualified Assistants", although they were not employees of the Firm, thereby furnishing allegedly false and fraudulent particulars for securing the professional assignment.

(ii) In its response dated 31st October, 2026, the Respondent stated that the aforesaid professionals were associated with it as on case to case basis with respect to any assignment on our request as agreed mutually for providing their consultancy services and that their particulars were included in the bid with their consent. In their respective responses obtained during the connected investigations, all four professionals (CMA Kshitij Shah, CMA Anil Manoharlal Garg, CMA Sharukhkhan Kureshi and CMA Rahul Modh) independently confirmed both the nature of their association and their consent for inclusion of their particulars in the bid. Their consistent statements support the existence of a professional association with the Respondent, as distinct from an employer–employee relationship.

(iii) In his rejoinder, the Complainant relied on a statement attributed to CMA Fenil Paresh Shah in which he is said to have denied employment with the Respondent and any agreement to receive a commission, fee or share of profits in connection with the NCL assignment. The Complainant inferred from that statement that CMA Fenil

Paresh Shah had also denied consenting to the inclusion of his name in the bid. In support of this contention, the Complainant produced only a screenshot, without identifying its source or furnishing a certified copy of the underlying statement. Its authenticity and completeness could therefore not be verified from the material furnished. In his reply dated 19th November 2026, CMA Fenil Paresh Shah confirmed that he provided taxation consultancy to the Respondent on a case-to-case basis and stated that he had been engaged as a consultant in connection with the NCL tender. Even if the statement of CMA Fenil Paresh Shah submitted by the Complainant is taken at face value, the denial of employment is not inconsistent with existence of an independent consultancy relationship. The material on record is therefore insufficient to sustain the Complainant's inference that CMA Shah denied consenting to the use of his name in the bid.

(iv) The issue for consideration is whether, under the tender conditions applicable on the date of submission of the bid required persons disclosed as "Fully Qualified Assistants" to be employees of the bidder or whether the Respondent otherwise expressly represented the professionals concerned as its employees. The absence of an employer–employee relationship does not itself establish that the disclosure was false where the professional association is acknowledged.

(v) In this regard, 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 therein was that, in the absence of a specific definition in the applicable tender conditions or contemporaneous Institute guidelines, the term "associate" can not necessarily be confined to a full-time employee. An acknowledged professional association on a retainer, assignment-to-assignment or similar basis could also fall within the description of an associate.

(vi) The material furnished by the Complainant indicates that the bid in question was submitted on 15th August, 2022. No contemporaneous tender stipulation or Institute guideline has been identified in the material under consideration which required the professionals included in the relevant category to be exclusively full-time employees

Board of Discipline

of the bidder. The Institute's Guidelines for Members on Use of Firm Name and Submission of Tender Documents dated 27th February, 2025 were not in force on the date of submission of the bid, and the requirements subsequently introduced therein cannot, by themselves, establish misconduct in respect of the earlier representation.

(vii) In the present matter, all professionals have acknowledged their association with the Respondent Firm. The fact that they were engaged on assignment to assignment basis, rather than as employees, does not, by itself, establish that their inclusion among the qualified assistants was false or fraudulent. Such a conclusion would require material demonstrating that the relevant tender category necessarily required employment or that the Respondent had expressly misrepresented them as employees. The material under consideration does not establish either circumstance.

(viii) Accordingly, considering the acknowledged professional association, the material available on record and the reasoning adopted by the Disciplinary Committee in the aforesaid matters, the inclusion of the names of CMA Kshitij Shah, CMA Anil Manoharlal Garg, CMA Anil Manoharlal Garg and CMA Rahul Modh in the tender documents does not tantamount to or constitute furnishing of a fake, forged or fraudulent list of employees. Allegation No. 1 is, therefore, not established against the Respondent.

Allegation No.2: Use of Name not approved by Council at the time of filing of tender

(i) The allegation concerns the use of name "D. K. BIRLA" as managing partner of the said firm under the registered seal in the tender documents in place of the approved name, "Dinesh Kumar Birla". The Complainant relies on the use of "D. K. Birla" on the seal, the registration number "00028" in place of "000028", Form CRA-2 relating to GSPC Pipavav Power Company Limited, and the Institute's RTI replies.

(ii) The requirement under Regulation 108 of the Cost and Works Accountants Regulations, 1959 to use a firm name approved by the Council has been considered. Regulation 108 of the Cost Accountants Regulations, 1959, requires prior approval of the Council for the use of a firm or trade name and, inter alia, restricts the use of a name which has not been approved by the Council.

(iii)The initials "D. K." in "D. K. Birla" correspond to the given names of the managing partner, Shri Dinesh Kumar Birla, and identify him as the signatory. The Firm participated in the bid under its registered name, M/s N D Birla & Co. The use of the partner's initials therefore does not establish that the Firm bid under an unapproved name.

(iv)The omission of a leading zero from the Firm's registration number is a discrepancy. The material cited does not show that the shorter number identified a different firm, that the Respondent claimed another firm's credentials, or that it knowingly misrepresented its identity

(v)Accordingly, the alleged contravention of Regulation 108 and the consequential allegation of professional misconduct are not established against the Respondent.

Allegation No.3: Fraudulent Solicitation of Clients

The Allegation No.3 is consequential and arises from Allegation No.1. Since Allegation No.1 has not been established against the Respondent, the consequential allegation of Fraudulent Solicitation of Clients also does not sustain. Accordingly, Allegation No.3 is held not established against the Respondent.

Allegation No.4: Bringing Disrepute to the Institute

The Allegation No.4 is consequential and arises from Allegation No.1, Allegation No.2 and Allegation No.3. Since Allegation No.1, 2 and 3 have not been established against the Respondent, the consequential allegation that the Respondent has brought disrepute to the Institute also does not sustain. Accordingly, Allegation No.4 is held not established against the Respondent.

Allegation No. 5, 6 & 7: Clause (2), (3) & (5) of PART I of the First Schedule of The Cost Accountant Act, 1959 - Professional Misconduct in Relation to Cost Accountant in Practice

The Allegations No.5, 6 & 7 are consequential and arise from Allegation No.1. Since Allegation No.1 has not been established against the Respondent, the consequential allegations also do not sustain. Accordingly, Allegations No. 5, 6 & 7 are held not established against the Respondent.

12. **Findings and Order of the Board of Discipline**

(a) The Board of Discipline has carefully considered the complaint, written statement of the Respondent, rejoinder of the Complainant, 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.

(b) Upon consideration of the record, the allegation wise observation of Board of Discipline is as under:

S. No.	Allegation	Findings of the Board
1	Fake and Fraudulent List of Employees	a) The Board notes that CMA Kshitij Shah, CMA Anil Manoharlal Garg, CMA Anil Manoharlal Garg and CMA Rahul Modh have independently and in the separate proceedings concerning them, acknowledged their professional association with the Respondent Firm on a project/assignment basis. Their association with the Firm is, therefore, undisputed. b) No stipulation in the relevant tender conditions or contemporaneous Institute guidelines has been shown to require that professionals included in the category in question must necessarily be only full-time employees. c) Having regard to the reasoning adopted by the Disciplinary Committee in Complaint No. Com/21-CA(108)/2022 and Com/21-CA(109)/2022 on substantially similar facts, and in the absence of material establishing a false representation of employment, the Board finds that this allegation is not established.
2	Use of Name not approved by Council	The initials "D. K." in "D. K. Birla" correspond to the given names of the managing partner, Shri Dinesh Kumar Birla, and identify him as the signatory. It is not in dispute that the Firm participated in the bid under its registered name, M/s N D Birla & Co. The use of the partner's initials therefore does not

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S. No.	Allegation	Findings of the Board
		establish that the Firm bid under an unapproved name. Further, no material is available on record to suggest that the Respondent intended to assume a different identity or mislead the tendering authority. Accordingly, this minor variation that too in name of partner does not establish the use of an unapproved firm name, and the allegation is not established.
3	Fraudulent Solicitation of Clients	This allegation rests upon the findings of Allegation No. 1. As those allegations are not established, and no independent material has been placed on record to substantiate any fraudulent solicitation of clients, this allegation is also not established.
4	Bringing Disrepute to the Institute	This allegation rests upon the findings of Allegation No. 1, 2 and 3. As those allegations are not established, and no independent material has been placed on record to substantiate any conduct bringing disrepute to the Institute, this allegation is also not established.
5	Clause (2), (3), (5) of Part I of the First Schedule of The Cost Accountant Act, 1959 – Professional Misconduct	This allegation rests upon the findings of Allegation No. 1. As those allegations are not established, and no independent material has been placed on record to substantiate any professional conduct, these allegations are also not established.

(c) In view of the above facts and circumstances, the Board agrees with the findings of the Director (Discipline) that no prima facie case of professional or other misconduct is made out against the Respondent. The case is, therefore, dismissed and the matter stands disposed of accordingly.

(d) Accordingly, in exercise of powers conferred under section 21A(4) of Cost Accountant 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 N. D. Birla & Co. (FRN: 000028) be dropped, and the case stands closed.

(e) The complaint is, therefore, disposed of accordingly.

CMA Avijit Goswami

(Member)

The 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, N. D. Birla & Co. (FRN: 000028)