

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2025-26)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(17) and Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

[PPR/MISC/TMD/89/2024/DD/41/INF/2024/DC/2168/2025]

In the matter of:

CA. Kapil Vitthalidas Thacker (M. No.150040)
(M/s K T G & ASSOCIATES, (FRN 135091W))
03-04, Business Street Complex
New Station Road
Bhuj (Kutch), Gujarat – 370001.

... Respondent

MEMBERS PRESENT:

CA. Charanjot Singh Nanda, Presiding Officer (in Person)
CMA Chandra Wadhwa, Government Nominee (in Person)
CA. Mahesh Shah, Government Nominee (in Person)
CA. Pramod Jain, Member (in Person)
CA. Ravi Kumar Patwa, Member (through Videoconferencing)

Date of Final Hearing: 25th January 2026

PARTIES PRESENT (through Video Conferencing):

Respondent: CA. Kapil Vitthalidas Thacker (M. No.150040)

1. BACKGROUND OF THE CASE:

- 1.1 The Tender Monitoring Directorate of ICAI (hereinafter referred to as "Informant/ TMD") which monitors the tenders floated by the organizations for professional services rendered by Chartered Accountants during the course of its functioning, came across a tender floated by Panchayats and Rural Housing Department Gujarat for Kachchh District Panchayat for engagement of Financial Audit Services- Audit Report wherein certain bidders quoted fee which was less than estimated bid value. The TMD deliberated on the matter at its meeting held on 5th February 2024 wherein it was decided, to refer the matter to the Director (Discipline) for investigation under section 21 of the Chartered Accountants Act, 1949. Accordingly, the TMD vide its letter dated 15th April 2024 referred the matter to the Director (Discipline) against certain CA firms including the firm M/s K T G & Associates, (FRN 135091W), Bhuj (hereinafter referred to as "Respondent firm") for violation of Tender Guidelines issued by ICAI. The aforesaid act of the Respondent firm has been alleged to be against the Tender Guidelines issued by the ICAI which falls under the Professional Misconduct within the meaning of Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

- 1.2 On consideration of the matter, it was decided to treat the same as "Information" within the meaning of Rule 7 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
- 1.3 Accordingly, in terms of the provision of sub-rule (1) of Rule (8) read with Rule 11 of the aforesaid Rules, an "Information" letter dated 30th May 2024 was sent to the Respondent firm with a request to disclose the name of the member(s) answerable to the Information and to arrange to submit written statement of such member(s) answerable along with a declaration duly signed by such member(s) answerable to the Information. In response, CA. Kapil Vitthalidas Thacker (M. No.150040), (hereinafter referred to as the "Respondent") vide his letter dated 17th July 2024 declared himself as the member answerable in the matter.

2. **CHARGE IN BRIEF:**

S.No.	Charge(s)	Prima Facie Opinion of the Director (Discipline)	Applicable Item of the Schedule to the Chartered Accountants Act 1949
1.	The Respondent firm participated in a tender for Financial Audit Services – Audit Report of 'Panchayats and Rural Housing Department Gujarat for Kachchh District Panchayat' (vide reference no. GEM/2023/B/3464255) dated 19 th May 2023 in violation of Tender Guidelines issued by ICAI.	Guilty	Item (1) of Part II of the Second Schedule

3. **RELEVANT ISSUES DISCUSSED IN THE PRIMA FACIE OPINION DATED 02ND SEPTEMBER 2025, FORMULATED BY THE DIRECTOR (DISCIPLINE) IN THE MATTER IN BRIEF, ARE GIVEN BELOW: -**

3.1 **With respect to charge that The Respondent firm participated in a tender for Financial Audit Services – Audit Report of 'Panchayats and Rural Housing Department Gujarat for Kachchh District Panchayat' (vide reference no. GEM/2023/B/3464255) dated 19th May 2023 in violation of Tender Guidelines issued by ICAI**

- 3.1.1 In this regard it is noted that a notification dated 7th April 2016 has been issued by Institute in Part III, Section 4 of the Gazette of India (Extraordinary).
"A member of the Institute in practice shall not respond to any tender issued by an organization or user of professional services in areas of services which are exclusively reserved for chartered accountants, such as audit and attestation services. However, such restriction shall not be applicable where minimum fee of the assignment is prescribed in the tender document itself or where the areas are open to other professionals along with the Chartered Accountants."

3.1.2 It is further noted that in Para 2.14.1.6(iv) of the Code of Ethics Volume - II (Revised 2020) relating to some forms of soliciting work which the Council has prohibited states as under:

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C *Responding to Tenders, Advertisements and Circulars:*

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(3) *A member of the Institute in practice shall not respond to any tender in areas of services which are exclusively reserved for Chartered Accountants by statute viz. Audit and Attestation Services such as Audit under Companies Act, 2013, Income Tax Act, 1961, etc. In any state under the local statute, if audit and attestation services are exclusively meant for Chartered Accountants only, the member will not be allowed to respond to such tender. However, a member may respond to tenders as mentioned above wherever the minimum fee of the assignment is prescribed in the tender document itself. The fees quoted by the member shall not be less than the minimum fee mentioned in the tender.*

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(8), *Non-adherence to these guidelines could lead to disciplinary action as this is a Council decision.*

....."

3.1.3 It is noted in the current matter that the tender floated by Panchayats and Rural Housing Department, Gujarat for Financial Audit Services for Kachchh District Panchayat was exclusively reserved for the Chartered Accountants, as observed from the Bid document.

3.1.4 It was observed that the 'Estimated bid value' of the assignment of Rs. 1,90,000/- was mentioned in the Gem Bid Document instead of a clearly defined 'Minimum bid fee'. Furthermore, the Respondent firm proceeded to apply for the tender despite being aware that it was exclusively reserved for Chartered Accountants and that no separate or specific minimum fee was mentioned.

3.1.5 In absence of any other fee in the tender, even if it was construed that the estimated bid value of Rs. 1,90,000/- constituted the minimum fee, even then any firm quoting below this amount would be engaging in professional misconduct and violating the Council's Tender Guidelines. Accordingly, even if the estimated bid value mentioned in the tender document is taken as the minimum fee, the Respondent was not permitted to quote an amount lower than Rs.1,90,000/-. It is however noted that the Respondent firm in the said tender quoted Rs. 1,50,300/- for the underlying assignment, which was even lower than the estimated bid value.

3.1.6 Accordingly, upon consideration of all facts and the Respondent's submissions, it is viewed that the Respondent, by participating in the tender which was exclusively reserved for Chartered Accountants and having no mention of minimum fee or by quoting a fee lower than the estimated bid value (even if estimated bid value be assumed as minimum fee), has violated the express provisions of the ICAI's Tender Guidelines dated 07th April 2016.

3.2 Accordingly, the Director (Discipline) in his Prima Facie Opinion held the Respondent Guilty of Professional Misconduct falling within the meaning of Item (1) of Part II of the Second Schedule. The said Item of the Schedule to the Act, states as under:

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Item (1) of Part II of Second Schedule:*PART II: Professional misconduct in relation to members of the Institute generally**A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he—**"(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council"*

- 3.3 The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee at its meeting held on 2nd December 2025. The Committee on consideration of the same, concurred with the reasons given against the charge and thus, agreed with the Prima Facie opinion of the Director (Discipline) that the Respondent is GUILTY of Professional Misconduct falling within the meaning of Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

4. DATE(S) OF WRITTEN SUBMISSIONS/PLEADINGS BY PARTIES:

- 4.1 The relevant details of the filing of documents in the instant case by the parties are given below:

S. No.	Particulars	Date
1.	Date of 'Information' letter	30 th May 2024
2.	Date of Written Statement filed by the Respondent	18 th September 2024
3.	Date of Prima Facie Opinion Formed by Director (Discipline)	02 nd September 2025
4.	Written Submissions by the Respondent after Prima Facie Opinion	22 nd January 2026

5. WRITTEN SUBMISSIONS FILED BY THE RESPONDENT:

- 5.1 The Respondent in his submission dated 22nd January 2026, inter-alia, stated as under:

- a) Services for which tender was issued was not exclusively reserved for Chartered Accountants:

In Part C of Para 2.14.1.6(iv) of the Code of Ethics, Volume II (Revised 2020), it has been stated that members are not prohibited from responding to tenders and requests made by users of professional work, subject to such conditions as may be issued by the Council from time to time. Guidelines No. 1 CA (7)/03/2016 dated 7th April 2016 relating to tenders have been issued by the Council. The relevant extract of Part C of Para 2.14.1.6(iv) of the Code of Ethics, Volume II (Revised 2020) is reproduced below:

"(3) A member of the Institute in practice shall not respond to any tender in areas of services which are exclusively reserved for Chartered Accountants by statute viz. Audit and Attestation Services such as Audit under Companies Act, 2013, Income Tax Act, 1961, etc. In any state under the local statute, if audit and attestation services are exclusively meant for Chartered Accountants only, the member will not be allowed to respond to such tender. However, a member may respond to tenders as mentioned above wherever the minimum fee of the assignment is prescribed in the tender document itself. The fees quoted by the member shall not be less than the minimum fee mentioned in the tender."

"(4) Tenders which are open to other professionals apart from CAs may be responded to by a member, even though in the tender document, only CAs may have been invited to respond."

- b) In the present case, the tender has been issued by the Panchayats and Rural Housing Department, Gujarat for Kachchh District Panchayat, and the scope of work has been related to audit and verification services in respect of District Rural Development Agencies (DRDAs). DRDAs are administered under the Ministry of Rural Development, Government of India, and the accounting and audit framework is governed by the Revised Accounting Procedure/Guidelines issued by the said Ministry. As per these Guidelines on DRDA Administration (2008, amended in 2018), the annual accounts of a DRDA are required to be audited by a "Chartered Accountant or any other auditor appointed for the purpose." Thus, the audit is not required to be conducted solely by a Chartered Accountant.

Thus, even at the statutory level, the audit of societies such as DRDAs is not exclusively reserved for Chartered Accountants. Additionally, authority to conduct or cause audit of DRDA accounts has been retained by the Comptroller and Auditor General of India (C&AG), either directly or through State Government machinery. Further, internal audit mechanisms such as the Chief Audit Officer (CAO) and audits under the supervision of the District Development Officer (DDO) or other competent authorities are also provided for.

- c) Accordingly, audit of DRDA accounts is not a service exclusively reserved for members of the Institute under any Statute but is a permissible engagement which may be undertaken by auditors appointed in accordance with applicable Governmental Rules and Guidelines.

- d) Practical infeasibility of prescription of minimum bid value in Tender Documents:

It has been alleged that the notification dated 07.04.2016 issued by the Institute has been contravened. It is submitted that practical difficulties are faced in the implementation of this requirement by users of professional services, particularly in Government and Public Sector tenders. Professional services are ordinarily procured through competitive bidding mechanisms aimed at achieving value for money, and in such processes, prescription or disclosure of minimum professional fees is uncommon and often impractical, as it may restrict competition and increase the burden on the public exchequer.

- e) Internal budgetary considerations of tendering authorities may be inadvertently disclosed if minimum fees are specified, which is generally avoided in competitive procurement environments. Consequently, minimum fees are often not prescribed and evaluation mechanisms based on technical and financial parameters are adopted instead. Professional expertise is required for determination of minimum fees, as such fees are required to be commensurate with factors such as size, value, volume, manpower requirement and nature of work, and it would be unreasonable to expect Government Departments or service users to possess the technical expertise necessary for such determination. Such an exercise inherently involves professional judgment, which ordinarily rests with practicing professionals. In view of the above practical realities, the absence of a prescribed minimum fee in the tender document ought not to be treated as a deliberate deviation from the Institute's Guidelines but should rather be regarded as a reflection of prevailing procurement practices. No role or control was exercised by the Respondent in framing the tender conditions and that participation in the tender was undertaken in a bona fide and practical manner, without any intention to violate Professional Standards or the Guidelines of the Institute.
- f) Quoted Professional Fees are in accordance minimum fees prescribed/ Recommended by ICAI:
Minimum Recommended Scale of Fees for professional assignments is issued from time to time by the Committee for Members in Practice (CMP) of ICAI, with the objective of maintaining professional standards and quality of work. Indicative minimum fees are prescribed under these scales for various services such as tax audits, statutory audits under the Companies Act, GST compliance, certifications, representations and registrations, with classification based on the nature of assignments and categories of cities. Upon perusal of the Revised Minimum Recommended Scale of Fees, it is noted that no specific minimum fee has been prescribed for audits of Government organizations such as District Rural Development Agencies (DRDAs).
- g) Without Prejudice Alternative approach may be please adopted:
No work was awarded pursuant to the said tender and, consequently, no professional assignment was executed and no benefit was derived. Further, no prejudice has been caused either to the tendering authority, to fellow members of the profession, or to the dignity and standing of the Institute.
- h) In view of the above facts and circumstances, and considering the absence of any mala fide intent, absence of any actual harm or gain, and the voluntary corrective steps taken, it is humbly prayed that a lenient and compassionate view may be adopted by this Hon'ble Committee and that initiation or continuation of any disciplinary proceedings may be refrained from, in the interest of justice, equity and proportionality.

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6. BRIEF FACTS OF THE PROCEEDINGS:

6.1 The Committee noted that the instant case was fixed for hearing on following dates:

S.No.	Date	Status of Hearing
1.	7 th January 2026	Adjourned at the request of Respondent
2.	25 th January 2026	Heard and concluded

6.2 At the hearing held on 7th January 2026, the Committee noted that the Respondent, vide his email dated 05th January 2026, had requested an adjournment on the ground that he is not available to join the hearing due to the extremely short notice which is extremely limited to collect relevant records, and prepare a comprehensive and effective representation and thus, he is unable to attend the hearing fixed for 7th January 2026. Since the request for adjournment of hearing had been received for the first time, the Committee, keeping in view of the principles of natural justice, acceded to the request of the Respondent for adjournment. Accordingly, the hearing in the case was adjourned at the request of the Respondent.

6.3 At the hearing held on 25th January 2026, the Committee noted that the Respondent was present before it through video conferencing. The Respondent was administered on Oath. The Committee enquired from the Respondent as to whether he was aware of the charge(s) alleged against him to which he replied in the affirmative. He pleaded Not Guilty to the charge(s) levelled against him and chose to argue his case before the Committee. Thereafter, the Respondent presented his line of defence, inter-alia, stating that the tender was issued by the Panchayats and Rural Housing Department, Gujarat for Kachchh District Panchayat. He submitted that the tender Guidelines expressly permit the audit to be conducted by a Chartered Accountant or any other auditor, and therefore the audit was not exclusively reserved for Chartered Accountants. He further submitted that under the Part C of Para 2.14.1.6(iv) of the Code of Ethics, participation in tenders is permissible where either a minimum fee is prescribed or where statutes allow persons other than Chartered Accountants to conduct the audit. His case falls under the latter exception, and hence the ICAI restriction on tender participation was not applicable. Reliance was placed on DRDA Guidelines permitting appointments of empaneled auditors, CAG, or other auditors, as well as on the Societies Registration Act 1860, which also allows audits by persons other than Chartered Accountants. Accordingly, his participation in the tender was in compliance with statutory provisions and the ICAI Code of Ethics, and that the estimated tender value was irrelevant in view of the applicable exception. On consideration of the submissions made, the Committee posed certain questions to the Respondent which were responded to by him. On consideration of the submissions made, the Committee posed certain questions to the Respondent which were responded to by them. Thereafter, upon perusal of the documents on record and on consideration of the oral and written submissions of the Respondent vis-à-vis facts of the case, the Committee decided to conclude the hearing in the case.

7. FINDINGS OF THE COMMITTEE: -

7.1 At the outset, the Committee noted that the charge against the Respondent is that the Respondent firm participated in a Tender bid no. GEM/2023/B/3464255 dated 19th May 2023 for financial audit services of Panchayats and Rural Housing Department, Gujarat for Kachchh District Panchayat in violation of Tender Guidelines issued by ICAI.

- 7.2 The Committee on perusal of the Bid document noted that the tender was floated on 19th May 2023 wherein following details were mentioned alongwith other details:

S. No.	Particulars	Details
1	Tender Floating Authority	<u>Panchayats and Rural Housing Department for Kachchh District Panchayat, Gujarat.</u>
2	Item Category	Financial Audit Services- Audit Report; CA firm
3	Estimated Bid Value	Rs. 1,90,000/-
4	Technical Specifications a. Scope of Work: Audit Report b. Type of Financial Audit: Statutory Audit	
5	Types of Industries/ Function	DRDA Kachchh Bhuj

Minimum Bid Value in the tender document	Bid quoted by the Respondent
Estimated bid value - Rs. 2,10,000/-	Rs. 1,50,300/-

- 7.3 The Committee noted that it is the case of the Respondent that the area of work for which the Respondent participated in the Tender was not exclusively reserved for Chartered Accountants. The Tendering Authority in the instant case, i.e. the Panchayats and Rural Housing Department for Kachchh District Panchayat, Gujarat which is administered by Ministry of Rural Development, Government of India and the accounting framework is governed by the Revised Accounting Procedures/ Guidelines issued by the said Ministry. The Guidelines on DRDA administration 2008(amended in 2018) state that the annual accounts of DRDA are required to be audited by "Chartered Accountant within the meaning of Institute of Chartered Accountants Act, 1949 or by such other persons as may be authorised in this behalf by the State Government."

He also stated that the scope of work pertained to audit related and verification services in respect of District Rural Development Agencies (DRDAs).

- 7.4 To substantiate his case, the Respondent, inter-alia, also brought on record the following:
- Copy of confirmation dated 13th January 2025 from the District Village Development Agency regarding registration of DRDA Kutch, Bhuj under Societies Registration Act 1860
 - copy of the relevant extract of Societies Registration (Gujarat Amendment) Act 1978,
 - copy of Guidelines on DRDA Administration.

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- 7.5 The Committee in this regard noted that a notification dated 7th April 2016 has been issued by Institute in Part III, Section 4 of the Gazette of India (Extraordinary), which states as under:

"A member of the Institute in practice shall not respond to any tender issued by an organization or user of professional services in areas of services which are exclusively reserved for chartered accountants, such as audit and attestation services. However, such restriction shall not be applicable where minimum fee of the assignment is prescribed in the tender document itself or where the areas are open to other professionals along with the Chartered Accountants." (emphasis provided)

- 7.6 The Committee further noted that in Para 2.14.1.6(iv) of the Code of Ethics Volume - II (Revised 2020) relating to some forms of soliciting work which the Council has prohibited states as under:

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C Responding to Tenders, Advertisements and Circulars:

(3) A member of the Institute in practice shall not respond to any tender in areas of services which are exclusively reserved for Chartered Accountants by statute viz. Audit and Attestation Services such as Audit under Companies Act, 2013, Income Tax Act, 1961, etc. In any state under the local statute, if audit and attestation services are exclusively meant for Chartered Accountants only, the member will not be allowed to respond to such tender. However, a member may respond to tenders as mentioned above wherever the minimum fee of the assignment is prescribed in the tender document itself. The fees quoted by the member shall not be less than the minimum fee mentioned in the tender.

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(8), Non-adherence to these Guidelines could lead to disciplinary action as this is a Council decision.

....." (emphasis provided)

- 7.7 The Committee noted that the Respondent brought on record copy of confirmation dated 13th January 2025 from the District Village Development Agency regarding registration of DRDA Kutch, Bhuj under Societies Registration Act 1860 vide Registration Certification no. SPSSG no. 13230 dated 31st May 1974.

- 7.8 Further, para 5.2 of the Guidelines on DRDA Administration issued in 2008 and amended in 2018, states as under:

"5.2 The DRDA shall be a registered society registered under a Societies Registration Act or a distinct cell in the Zilla Parishad having a separate identity.

Also, Section 12D(4) of the Societies Registration Act 1860 (inserted vide Societies Registration (Gujarat Amendment) Act, 1978, provides as under:

"12D. Maintenance of accounts and their balancing and auditing.-

(1) Every governing body entrusted with the management or the affairs of a society registered under this Act (not being a public trust within the meaning of the Bombay Public Trusts Act, 1950(Bom. XXIX of 1950)) shall keep regular accounts.

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(4) The accounts shall be audited annually in such manner as may be prescribed by rules, by a person who is a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (38 of 1949) or by such other persons as may be authorised in this behalf by the State Government."

7.9 The Committee further perused the Guidelines on DRDA Administration, Ministry of Rural Development, Government of India, 2008 which inter-alia, states as hereunder:

"D) AUDIT OF THE ACCOUNTS

i) The Project Director should cause the annual accounts of the DRDA to be prepared by a not later than 30th June comprising Receipt and Payment Account, Income and date Expenditure Account and Balance Sheet. After approval by the Governing Body, he shall have the accounts audited by the Chartered Accountant or any other auditor appointed for the purpose. A copy of such audit report (duly signed by auditor) alongwith the annual statement of accounts certified by the auditor and the Chairman of the DRDA thereon should be furnished simultaneously to Government of India and the State Government not later than 30th September."

7.10 Thus, the Committee held that the Respondent has been able to substantiate that the area of work in respect of which the Respondent had responded to by bidding in the tender, was open to other professionals/persons along with the Chartered Accountants as per the governing Statute.

7.11 The Committee also perused the FAQs issued by the Tender Monitoring Directorate (TMD), which, inter-alia, provide as under:

"5 What are the exclusively reserved areas for Chartered Accountants?

Ans. Exclusively reserved areas for Chartered Accountants are those which are reserved by the statute viz. Audit and Attestation Services such as audit under Companies Act, 2013, Income Tax Act, 1961, etc.

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7 What are the non-exclusive areas for Chartered Accountants?

Ans. All those areas are non-exclusive for Chartered Accountants which are not reserved under any statute or provision of any law or where any statute or provision of law opens such areas to other professionals along with Chartered Accountants.

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9 Whether a Member of the Institute in practice can respond to such tenders which are open to other professionals apart from CAs. However, in the tender document, only CAs have been invited to respond.

Ans. Yes, the Member of the Institute can respond to such tenders. (emphasis provided)

7.12 Thus, the Committee after detailed deliberations and examining the documents on record, with respect to the charge(s) alleged against the Respondent was of the view that the since the area of work in respect of which the Respondent had responded to by bidding in the tender, was open to other professionals/persons along with the Chartered Accountants as per the governing Statute, the Respondent could respond to the tender in respect of which the charge is alleged. Thus, by responding to the alleged tender, the Respondent did not contravene the Tender Guidelines issued by ICAI.

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