



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

PPR/MISC/TAQRB/124/2023/DD-38/TAQRB-INF-2023/DC-2112-2025

[DISCIPLINARY COMMITTEE [BENCH-II (2025-2026)]]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

ORDER UNDER SECTION 21B (3) OF THE CHARTERED ACCOUNTANTS ACT, 1949
READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF
INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT
OF CASES) RULES, 2007

File No: PPR/MISC/TAQRB/124/2023/DD-38/TAQRB-INF-2023/DC-2112-2025

In the matter of:

CA. Nihar Arvind Shah (M. No. 114824),
202, Ratandeeep
1st Floor, 5th Road
Daulat Nagar,
Borivali East,
Mumbai – 400066,
Maharashtra.

.....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 Hearing : 10th February 2026

Date of Order : 11th February 2026

1. That vide Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Disciplinary Committee was, inter-alia, of the opinion that **CA. Nihar Arvind Shah (M. No. 114824), Mumbai** (hereinafter referred to as 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.

Signature



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- Pursuant to the said Findings, an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication was addressed to him thereby granting opportunity of being heard in person / through video conferencing and to make representation before the Committee on 10th February 2026.
- At its meeting on 10th February 2026, the Committee noted that the Respondent was not present and vide his email dated 10th February 2026 informed that he has nothing more to say further. It was a one-off case of a small tailor shop.
- Thus, the Committee considered the reasoning as contained in the Findings holding the Respondent Guilty of Professional Misconduct vis-à-vis representation of the Respondent.
- Keeping in view the facts and circumstances of the case and material on record including representation of the Respondent on the Findings, the Committee noted the following factual position in the present case: -

No. of tax audit conducted	Status of Certificate of Practice at the time of alleged misconduct	Status of admission of guilt of the Respondent
1	Part time Certificate of Practice	Admission of Guilt in his written submissions before the Committee/Secretary (ICAI)

Thus, on consideration of the documents and submissions on record, the Committee noted that the Respondent in his submissions clearly admitted his guilt/misconduct. Accordingly, the Committee held that the Respondent, despite holding a part-time Certificate of Practice, undertook and uploaded Tax Audit Report under Section 44AB of the Income Tax Act, 1961 in respect of 1 assessee. The Committee also held that the certification of a Tax Audit Report is a statutory audit function, which is expressly permitted only to members holding a full-time Certificate of Practice. By undertaking such an assignment while being ineligible to do so, the Respondent contravened the provisions of the Chartered Accountants Act, 1949 and the Regulations framed thereunder.

- Hence, professional misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 6th February 2026 which is to be read in consonance with the instant Order being passed in the case.

Bisg



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7. Accordingly, the Committee was of the view that ends of justice will be met if punishment is given to the Respondent in commensurate with his Professional Misconduct.
8. Thus, the Committee, keeping in view the facts and circumstances of the case, material on record and representation of the Respondent before it, ordered that CA. Nihar Arvind Shah (M. No. 114824), Mumbai be Reprimanded under Section 21B(3)(a) of the Chartered Accountants Act 1949.

Sd/-

(CA. CHARANJOT SINGH NANDA)
PRESIDING OFFICER

Sd/-

(CMA. CHANDRA WADHWA)
GOVERNMENT NOMINEE

Sd/-

(CA. MAHESH SHAH)
GOVERNMENT NOMINEE

Sd/-

(CA. PRAMOD JAIN)
MEMBER

Sd/-

(CA. RAVI KUMAR PATWA)
MEMBER

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बिष्णुनाथ तिवारी / Bishwa Nath Tiwari
वरिष्ठ कार्यकारी अधिकारी / Senior Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
भारतीय सनदी लेखाकार संस्थान
The Institute of Chartered Accountants of India
पार्स.सी.ए.आई. भवन, सी-1, सेक्टर-1, नोएडा-201301 (उ.प्र.)
CAI Bhawan, C-1, Sector-1, Noida-201301 (U.P.)

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2025-26)]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

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

[PPR/MISC/TAQRB/124/2023/DD-38/TAQRB-INF-2023/DC-2112-2025]

In the matter of:

**CA. Nihar Arvind Shah (M. No. 114824),
202, Ratandeep
1st Floor, 5th Road
Daulat Nagar,
Borivali East
Mumbai – 400066, Maharashtra.**

...Respondent

MEMBERS PRESENT (In person):

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

Date of final hearing: 30th December 2025

Date of decision: 7th January 2026

1. BACKGROUND OF THE CASE:

- 1.1 The Committee noted that in the year 2011 the Central Board of Direct Taxes (CBDT) had provided information to the ICAI relating to the Tax Audit reports filed in 2010-11 by its members. Thereafter, vide office note dated 30th December 2022, the Secretary, Taxation Audits Quality Review Board (hereinafter referred to as "**Informant/ TAQRB**") forwarded recommendation of the Council on '*Audits reportedly conducted by members not holding COP/ members holding Part time COP/ Members whose name had been removed from the Register of Members*' to the Disciplinary Directorate. The said note of TAQRB alleged certification of Tax Audit Report despite holding Part Time Certificate of Practice (COP) during the financial year 2010-11 against CA. Nihar Arvind Shah (M. No. 114824), Mumbai (hereinafter referred to as the "**Respondent**").

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 conducted Tax Audit under Section 44AB of the Income Tax Act, 1961 and uploaded his Report against his membership number despite having Part Time Certificate of Practice (COP) during the financial year 2010-11.	Guilty	Item (1) of Part II of the Second Schedule

3. **RELEVANT ISSUES DISCUSSED IN THE PRIMA FACIE OPINION DATED 21st MAY 2025, FORMULATED BY THE DIRECTOR (DISCIPLINE) IN THE MATTER IN BRIEF, ARE GIVEN BELOW: -**3.1 **With respect to charge that the Respondent conducted Tax Audit under Section 44AB of the Income Tax Act, 1961 and uploaded his Report against his membership number despite having Part Time Certificate of Practice (COP) during the financial year 2010-11:**

- 3.1.1 As per the provisions mentioned in Section 6(1) of the Chartered Accountants Act, 1949 read with the decision of the Council at its 241st meeting held in March 2004 which was effective from 1st April 2005, any member in part-time practice (namely, holding certificate of practice and is also engaging himself in any other business and/or occupation) is not entitled to perform attest function and that the resolution has been passed by the Council in pursuance of provision of Regulation 190A.
- 3.1.2 It is observed that the Respondent in his submissions dated 'nil' received on 21st February 2012 given to the then Secretary, ICAI, had admitted that a part-time COP holder is not eligible for conducting a Tax Audit. He further stated that he was an employee of M/s Datamatics Global Services Ltd from 2002, and he signed one account in the last year under such impression that the account was not a Tax Audit. He further assured that he will abide by the Council Guidelines, and he will never attest any document till the time he works as an employee.
- 3.1.3 Though, in the present case, the number of audit reports uploaded is only one, yet it is viewed that the highest standards of ethical behaviour and professional compliance to the Guidelines prescribed are expected from the members of the profession and violation of any Rules/Regulations is not acceptable.

- 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, state as under:

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 13th October 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	21 st July 2023
2.	Date of Written Statement filed by the Respondent	No Response received from Respondent
3.	Date of Prima Facie Opinion Formed by Director (Discipline)	21 st May 2025
4.	Written Submissions by the Respondent after Prima Facie Opinion	5 th December 2025

5. WRITTEN SUBMISSIONS FILED BY THE RESPONDENT:

- 5.1 The Respondent in his e-mail dated 5th December 2025 informed that he had already submitted his Written Statement in response to the first notice received 6-7 years ago, wherein he had apologized for the minor lapse in signing a single small file. He has no further submissions to make in this matter.

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.	30.12.2025	Heard and concluded
2.	07.01.2026	Final decision taken on the conduct of Respondent

- 6.2 At the time of hearing held on 30th December 2025, the Committee noted that the Respondent was not present before it when the case was taken up for hearing. The Committee further noted that the Respondent vide email dated 27th December 2025 informed that presently he is outstation and may not be able to attend the hearing scheduled on 30th December 2025. His written submissions are already on record. The Committee may kindly proceed accordingly. The Committee also noted that the Respondent vide email dated 5th December 2025 informed that he had already submitted his Written Statement in response to the first notice received 6-7 years ago, wherein he had apologized for the minor lapse in signing a single small file. He has no further submissions to make in this matter.

Thus, on the basis of the aforesaid written submission of the Respondent together with the other documents on record, the Committee decided to conclude the hearing in the case. The Committee further directed the office to seek the current membership status of the Respondent from the SSP of ICAI. Thus, the decision on the conduct of the Respondent was kept reserved by the Committee.

- 6.3 At its meeting held on 7th January 2026, the Committee noted that aforesaid written submission of the Respondent. The Committee also noted that the Respondent held a Part-time Certificate of Practice during the alleged period and currently is an active member of ICAI holding Part-time Certificate of Practice.
- 6.4 Thus, on consideration of the documents and submissions on record, the Committee decided on the conduct of the Respondent.

7. **FINDINGS OF THE COMMITTEE: -**

- 7.1 At the outset, the Committee noted that the charge against the Respondent is that he conducted Tax Audit under Section 44AB of the Income Tax Act, 1961 and uploaded his Report against his membership number despite having Part Time Certificate of Practice (COP) during the financial year 2010-11.
- 7.2 The Committee in this regard noted that Section 6(1) of the Chartered Accountants Act, 1949 states as under:

"No member of the Institute shall be entitled to practice [whether in India or elsewhere] unless he has obtained from the Council a certificate of practice."

7.3 The Committee also noted that the Council at its 241st meeting held in March 2004 decided that effective from 1st April 2005, any member in part-time practice (namely, holding certificate of practice and is also engaging himself in any other business and/or occupation) is not entitled to perform attest function and that the resolution passed under Regulation 190A. The Council in this connection clarified that the Attest function would cover services pertaining to audit, review, certification, agreed upon procedures, and compilation, as defined in the Framework of Statements on Standard Auditing Practices and Guidance Note on Related Services published in the July 2001 issue of the Institute's Journal.

7.4 The Committee also noted the following factual position in the case:

No. of tax audit conducted	Status of Certificate of Practice at the time of alleged misconduct	Status of admission of guilt of the Respondent
1	Part time Certificate of Practice	Admission of Guilt in his written submissions before the Committee/Secretary(ICAI)

7.5 Thus, on consideration of the documents and submissions on record, the Committee noted that the Respondent in his submissions clearly admitted his guilt/misconduct. Accordingly, the Committee held that the Respondent, despite holding a part-time Certificate of Practice, undertook and uploaded Tax Audit Report under Section 44AB of the Income Tax Act, 1961 in respect of 1 assessee. The Committee also held that the certification of a Tax Audit Report is a statutory audit function, which is expressly permitted only to members holding a full-time Certificate of Practice. By undertaking such an assignment while being ineligible to do so, the Respondent contravened the provisions of the Chartered Accountants Act, 1949 and the Regulations framed thereunder.

7.6 Accordingly, the Committee decided to hold the Respondent **Guilty** of Professional Misconduct falling within the meaning of Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

8. **CONCLUSION:**

In view of the findings stated in the above paras, vis-à-vis material on record, the Committee gives its findings as under:

CHARGE (AS PER PFO)	FINDINGS	DECISION OF THE COMMITTEE
S.no. 1 of Para 2 as above	Para 7.1 to Para 7.6 as above	Guilty- Item (1) of Part II of Second Schedule

9. In view of the above observations, considering the submissions and material on record, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

Sd/-
(CA. CHARANJOT SINGH NANDA)
PRESIDING OFFICER

Sd/-
(CMA. CHANDRA WADHWA)
(GOVERNMENT NOMINEE)

Sd/-
(CA. MAHESH SHAH)
(GOVERNMENT NOMINEE)

Sd/-
(CA. PRAMOD JAIN)
(MEMBER)

Sd/-
(CA. RAVI KUMAR PATWA)
(MEMBER)

DATE: 06.02.2026
PLACE: NEW DELHI

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