



# भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[DISCIPLINARY COMMITTEE BENCH-IV (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.: [PR/340/21/DD/338/2021/DC/1819/2023]**

**In the matter of:**

**CA. Varun Gupta,  
Partner, M/s Nidhi Bansal & Co.,  
Chartered Accountants  
202, Amber Tower,  
Commercial Complex, Azadpur  
Delhi – 110 033**

**.... Complainant**

**Versus**

**CA. Manoj Kumar Jain (M.No.095531),  
M/s Manoj Raj & Associates,  
304 Laxman Palace,  
19, Veer Savarkar Block  
Delhi – 110 092**

**.... Respondent**

**MEMBERS PRESENT:**

- 1. CA. Prasanna Kumar D, Presiding Officer (In person)**
- 2. Ms. Dakshita Das IRAS (Retd.), Government Nominee (Through VC)**
- 3. Adv Vijay Jhalani, Government Nominee (Through VC)**
- 4. CA. Mangesh P. Kinare, Member (In person)**
- 5. CA. Satish Kumar Gupta, Member (Through VC)**

**DATE OF HEARING: 27<sup>th</sup> January 2026**

**DATE OF ORDER: | 0<sup>th</sup> February 2026**

1. That vide Findings dated 05<sup>th</sup> January 2026 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. Manoj Kumar Jain (M.No.095531)** (hereinafter referred to as the **Respondent**) is **GUILTY** of Professional Misconduct falling within the meaning of Clause (8) of Part-I of First Schedule and Clause (1) of Part-II of Second Schedule to the Chartered Accountants Act, 1949.



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2. That 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 an opportunity of being heard in person/ through video conferencing and to make representation before the Committee on 27<sup>th</sup> January 2026.

3. The Committee noted that on the date of hearing on 27<sup>th</sup> January 2026, the Respondent was present through video conferencing. During the hearing, the Respondent made verbal submissions and also referred to the written representation dated 24<sup>th</sup> January 2026 on the Findings of the Committee. The Committee noted the verbal and written representation of the Respondent dated 24<sup>th</sup> January 2026 on the Findings of the Committee, which, inter alia, are as under: -

- The company concerned was a very small and almost non-operational entity, and owing to its negligible scale of operations, it was practically not feasible to receive any significant professional fees from the said company.
- Any lapse was purely technical and unintentional, without any adverse impact on stakeholders.
- He requested the Committee to take a lenient and sympathetic view while deciding the matter.

4. The Committee considered the reasoning as contained in Findings holding the Respondent 'Guilty' of Professional Misconduct vis-à-vis the verbal and written representation of the Respondent. The Committee noted that the issues/submissions made by the Respondent as aforesaid have been dealt with by it at the time of hearing under Rule 18.

5. Thus, keeping in view the facts and circumstances of the case, material on record including verbal and written representation of the Respondent on the Findings, the Committee was of the view that the Respondent failed to establish that any written communication with the previous auditor was made prior to acceptance of the audit. The Committee reiterated that



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communication with the outgoing auditor is a mandatory statutory requirement intended to ascertain professional reasons for change of auditor and safeguard auditor independence, and not a mere formality.

6. The Committee observed that the Respondent sought confirmation of payment of the Complainant's audit fees only vide letter dated 16<sup>th</sup> June 2022, i.e., after filing the subject complaint, which was considered an afterthought. In terms of *Chapter VII of the Council General Guidelines, 2008*, acceptance of audit in cases of non-payment of undisputed audit fees of the previous auditor is prohibited and such payment is a mandatory precondition prior to acceptance. Hence, the Professional Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 05<sup>th</sup> January 2026 which is to be read in consonance with the instant Order being passed in the case.

7. Accordingly, the Committee was of the view that the ends of justice would be met if punishment is given to him in commensurate with his Professional Misconduct.

8. Thus, the Committee ordered that the Respondent i.e. CA. Manoj Kumar Jain (M.No.095531), Delhi be REPRIMANDED and also imposed a fine of Rs. 1,00,000/- (Rupees one lakh only) upon him which shall be paid within a period of 60 (sixty) days from the date of receipt of the order.

Sd/-  
(CA. PRASANNA KUMAR D)  
PRESIDING OFFICER

Sd/-  
(MS DAKSHITA DAS, I.R.A.S (RETD.))  
GOVERNMENT NOMINEE

Sd/-  
(ADV VIJAY JHALANI)  
GOVERNMENT NOMINEE

Sd/-  
(CA. MANGESH P. KINARE)  
MEMBER

संस्थापित होने के लिए प्रमाणित / Certified to be true  
निशा शर्मा / Nisha Sharma  
सहायक सचिव / Assistant Secretary  
अनुशासनात्मक विदेशालय / Disciplinary Directorate  
भारतीय सनदी लेखाकार संस्थान  
The Institute of Chartered Accountants of India  
आई.सी.ए.आई. भवन, सी-1, सेक्टर-1, नोएडा-201301 (उ.प्र.)  
ICAI Bhawan, C-1, Sector-1, Noida-201301 (U.P.)

Sd/-  
(CA. SATISH KUMAR GUPTA)  
MEMBER

**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – IV (2025-2026)]**

**[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.**

**File No.: - [PR/340/21/DD/338/2021/DC/1819/2023]**

**In the matter of:**

**CA. Varun Gupta,**  
Partner, M/s Nidhi Bansal & Co.,  
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202, Amber Tower,  
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Delhi – 110 033

.....Complainant

**Versus**

**CA. Manoj Kumar Jain (M.No.095531),**  
M/s Manoj Raj & Associates,  
304 Laxman Palace,  
19, Veer Savarkar Block  
Delhi – 110 092

.....Respondent

**MEMBERS PRESENT:**

**CA. Prasanna Kumar D, Presiding Officer (In person)**  
**Ms. Dakshita Das, IRAS (Retd.), Government Nominee (In person)**  
**Adv. Vijay Jhalani, Government Nominee (In person)**  
**CA. Mangesh P. Kinare, Member (In person)**  
**CA. Satish Kumar Gupta, Member (In person)**

**DATE OF FINAL HEARING : 07<sup>th</sup> November 2025**

**PARTIES PRESENT:**

**Respondent: CA. Manoj Kumar Jain (Through VC)**

**1. Background of the Case:**

The Complainant firm was statutory auditor of **M/s. Nambirajan Finance Private Limited, Noida** (hereinafter referred to as the "**Company**") since the financial year 2010-11 and it has audited and signed the financial statement of the Company till 31.03.2019. The

Complainant firm continues to be the statutory auditor of the Company as they neither resigned nor was removed. However, it came to knowledge of Complainant that the Respondent has accepted the audit of the Company for the financial year 2019-20.

2. **Charges in brief:**

- 2.1 The Respondent audited the financial statements for the financial year 2019-20 without any communication / brining the same to the knowledge of the Complainant. Accordingly, the Respondent allegedly violated the Clause (8) of Part I of the First Schedule to the Chartered Accountants Act, 1949.
- 2.2 The Respondent accepted the audit of the Company in spite of the fact that the undisputed audit fees of Rs.1,20,486/- was outstanding on 31.03.2019. Accordingly, as per the Complainant, the Respondent violated Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

3. **The relevant issues discussed in the Prima Facie Opinion dated 04<sup>th</sup> May, 2023 formulated by the Director (Discipline) in the matter in brief, are given below:**

- 3.1 The Respondent did not make any submissions with regard to communication with the previous auditor and did not provide any documentary evidence to show that he had communicated first with the previous auditor before accepting the position of auditor. The Respondent chose to remain silent and apologised for misconduct, if any, committed by him. The Respondent was required to communicate first with the previous auditor before accepting the position of auditor of the Company but in absence of specific submission and evidence, he appears to have failed to do so.

Accordingly, the Respondent was held prima facie **GUILTY** of Professional Misconduct falling within the meaning of Clause (8) of Part I of First Schedule to the Chartered Accountants Act, 1949.

- 3.2 The Respondent did not make any submissions with respect to allegation of outstanding audit fees of the Complainant and only stated that if he had committed any mistake, he apologised for the same.

In the instant matter, despite audit fees being outstanding, the Respondent accepted and conducted the audit of the Company. Further, he failed to bring on record any evidence that

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outstanding audit fee of previous auditor was paid by the Company before his acceptance of the audit for subsequent year.

Accordingly, the Respondent was held prima facie **GUILTY** of Professional Misconduct falling within the meaning of Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

- 3.3 Accordingly, the Director (Discipline) in his Prima Facie Opinion dated 04<sup>th</sup> May 2023 opined that the Respondent was Prima Facie **Guilty** of Professional Misconduct falling within the meaning of Clause (8) of Part I of the First Schedule and Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949. The said Clause of the Schedule to the Act, states as under:

**Clause (8) of Part I of the First Schedule:**

"A Chartered Accountant in practice shall be deemed to be guilty of professional misconduct if he:

x                    x                    x                    x                    x                    x

(8) accepts a position as auditor previously held by another chartered accountant or a certified auditor who has been issued certificate under the Restricted Certificate Rules, 1932 without first communicating with him in writing;

**Clause (1) of Part II of the Second Schedule:**

"A Chartered Accountant in practice shall be deemed to be guilty of professional misconduct if he:

x                    x                    x                    x                    x                    x

(1) contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;

- 3.4 The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee in its meeting held on 18<sup>th</sup> August 2023. The Committee on consideration of the same, concurred with the reasons given against the charge(s) and thus, agreed with the Prima Facie opinion of the Director (Discipline) that the Respondent was **GUILTY** of Professional Misconduct falling within the meaning of Clause (8) of Part I of the First Schedule and Clause (1) of Part II of 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.

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4. **Date(s) of Written submissions/Pleadings by parties:**

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

S. No.	Particulars	Dated
1.	Date of Complaint in Form 'I' filed by the Complainant	07 <sup>th</sup> October 2021
2.	Date of Written Statement filed by the Respondent	18 <sup>th</sup> November 2021
3.	Date of Rejoinder filed by the Complainant	15 <sup>th</sup> December 2021
4.	Date of Prima Facie Opinion formed by Director (Discipline)	04 <sup>th</sup> May 2023
5.	Written Submissions filed by the Respondent after Prima Facie Opinion	26 <sup>th</sup> October 2023
6.	Written Submissions filed by the Complainant after Prima Facie Opinion	Not Filed

5. **Written Submissions filed by the Respondent: -**

The Respondent, vide letter dated 26<sup>th</sup> October 2023 inter alia, made the submissions which are given as under:-

- 5.1 The Respondent submitted that he had provided all the documents, along with email confirmation from the client regarding the payment of audit fees.
- 5.2 In support of his submissions, the Respondent has submitted the following documents—
- Copy of financial statement,
  - Confirmation Letter of Payment and
  - Copy of confirmation of payment of Audit fees of Rs. 17,700 for FY 2018-19 in FY 2019-20.

6. **Brief facts of the Proceedings:**

- 6.1 The details of the hearing(s)/ meetings fixed and held/adjourned in said matter is given as under:

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S.No.	Date of meeting(s)	Status
1.	11 <sup>th</sup> December 2024	Consideration of the subject case was deferred by the Committee.
2.	09 <sup>th</sup> July 2025	Adjourned in absence of both parties.
3.	26 <sup>th</sup> September 2025	Adjourned at the request of Respondent.
4.	07 <sup>th</sup> November 2025	Hearing Concluded & Decision taken

- 6.2 On the day of hearing held on 11<sup>th</sup> December 2025, the Consideration of the subject case was deferred by the Committee.
- 6.3 On the day of hearing held on 09<sup>th</sup> July 2025, the Committee noted that neither the Complainant nor the Respondent was present despite notices of the hearing duly served upon them. In the absence of the Complainant and the Respondent, the Committee adjourned the captioned case to a future date with a view to extend one final and last opportunity to the Complainant and the Respondent to substantiate/defend the charges.
- 6.4 On the day of hearing held on 26<sup>th</sup> September 2025, the Committee noted that the Respondent had sought an adjournment vide email dated 26<sup>th</sup> September 2025 due to health issues. Acceding to the request of the Respondent, the Committee adjourned the subject case to a future date.
- 6.5 On the day of final hearing 07<sup>th</sup> November 2025, the Respondent was present through VC and appeared before it. Further the Committee noted that The Respondent admitted to not communicating with the previous auditor but stated that the fees for the previous audit had been paid before the audit commenced. However, he was unable to provide a specific date for the payment and submitted a letter from the company that lacked a date. The Committee questioned the respondent about the payment details, noting that he had paid only Rs. 17,700/- for the previous year's audit, while the alleged outstanding fees amounted to Rs. 1,20,486/-. The respondent claimed that the Complainant had not collected fees for several years and that he had conducted audits without charging fees due to his acquaintance with the company. He further stated that he has ceased to be the auditor of the Company after realizing the situation and had not conducted audit thereafter.
- 6.6 The Committee raised concerns about the documentation regarding the payment of fees and the respondent's failure to communicate with the previous auditor. The respondent maintained that he had paid the previous year's fees and had only audited one year before leaving the assignment.

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6.7 Based on the documents/material and information available on record and the oral and written submissions made by the Respondent, and on consideration of the facts of the case, the Committee concluded the hearing in subject matter and took the decision on the conduct of the Respondent.

7. **Findings of the Committee: -**

7.1 The Committee noted that there are two allegations against the Respondent in which he has been held Prima Facie Guilty and same has been explained in para 2.1 and 2.2 above.

7.2 In respect of **first allegation** related to non-communication with the previous auditor (i.e., the Complainant firm), the Respondent stated that he was appointed as statutory auditor for the financial year 2019-20 in the AGM held on 30.09.2019. He also stated that the tenure of the Complainant firm was expired, and the said fact was duly mentioned in the Director's report for the financial year 2018-19. The Respondent provided copy of notice of AGM regarding appointment of the Respondent firm as auditor of the Company till the conclusion of the next AGM of the Company to be held in the year 2019 and also provided copy of resolution passed in the AGM for his appointment. He stated that the Complainant assured him that he had no objection for his appointment over telephone on 19.02.2021 but surprisingly, he has filed the instant complaint. The Respondent also stated that he apologised if he had made any misconduct.

7.3 In respect of above allegation, the Committee observed that the Respondent did not make any submissions with regard to communication with the previous auditor (complainant) and did not provide any documentary evidence to show that he had communicated first with the previous auditor before accepting the position of auditor. The Respondent chose to remain silent and apologised for misconduct, if any, committed by him. He further stated that the Complainant assured him that he had no objection for his appointment over telephone on 19.02.2021.

7.4 In view of above facts on record, the Committee was of the view that the Respondent was appointed Statutory Auditor of the Company in AGM held on 30.09.2019 and he had signed the Audit Report and Financial Statements of the Company for Financial Year 2019-2020 on 05.12.2020, without first making communication with the previous auditor (Complainant). The Respondent himself has accepted that on 19.02.2021, the Complainant over telephone assured him that he had no objection for his appointment, but he failed to brought on record any evidence which could establish that he had made written communication with the

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Complainant before accepting the audit assignment as per the requirements of Clause (8) of Part I of First Schedule to the Chartered Accountant Act, 1949, which states as under:

*A member shall be deemed to be guilty of professional misconduct if he: -*

*"accepts a position as auditor previously held by another chartered accountant or a certified auditor who has been issued certificate under the Restricted Certificate Rules, 1932 without first communicating with him in writing;"*

In view of the abovementioned requirement, the Committee was of the considered view that the Respondent was required to communicate first with the previous auditor before accepting the position of auditor of the Company but in absence of specific submission and evidence, he appears to have failed to do so.

- 7.5 The Committee further noted that the purpose of the communication with the outgoing auditor is not just the Courtesy; rather beyond that. It is meant to know, before accepting the appointment, any professional reason of change in the auditor so that the independence of the auditor is not compromised. In the extant case, the Respondent failed to communicate with the previous auditor in writing as required under the provisions of Clause (8) of Part I of First Schedule to the Chartered Accountants Act, 1949.
- 7.6 Therefore, the Respondent is held **Guilty** of Professional Misconduct falling within the meaning of Clause (8) of Part I of First Schedule to the Chartered Accountants Act, 1949.
- 7.7 In respect of **second allegation** relating to acceptance of audit for the financial year ended 31.03.2020 in spite of the fact that outstanding audit fees of the Complainant for the financial year ended 31.03.2019 was unpaid, the Committee observed that the Respondent did not make any submissions with respect to this allegation and only stated that if he had committed any mistake, he apologised for the same.
- 7.8 On perusal of the financial statement of the Company for the financial year 2018-19, the Committee observed that audit fees of Rs.1,02,786/- was outstanding as at 31.03.2019. However, as per the Profit & Loss Account of the Company for the said period, only Rs 17,700/- was charged as audit fees to the Profit and Loss Account. Although there was no clarity on the fact as to whether audit fees shown as payable in the Balance Sheet represent statutory audit fees only or it includes other audit fees as well, however, the Committee noted that the Respondent failed to bring on record any documentary evidence to show that even outstanding audit fees (Rs.17,700/-) was paid to the Complainant before acceptance of audit.

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7.9 Moreover, the Committee noted that the Respondent during the hearing has brought on record, a copy of letter dated 16.06.2022 addressed by him to the Company for confirmation of payment of audit fees of the Complainant. In view of this evidence, the Committee was of the view that said letter addressed by the Respondent for confirmation of payment of audit fees of the Complainant was just an afterthought as same was written by him after filing subject complaint and thus, was of the opinion that the Respondent had not ascertained at the time of acceptance of audit assignment, whether outstanding audit fees of the Complainant was paid or not by the Company.

7.10 On perusal of Council General Guidelines, 2008, the following has been observed by the Committee: -

***“Chapter VII***

***Appointment of an Auditor in case of non-payment of undisputed fees***

***7.0*** A member of the Institute in practice ***shall*** not accept the appointment as auditor of an entity in case the undisputed audit fee of another Chartered Accountant for carrying out the statutory audit under the Companies Act, 1956 or various other statutes has not been paid: Provided that in the case of sick unit, the above prohibition of acceptance shall not apply.

***7.1 Explanation 1 -***

*For this purpose, the provision for audit fee in accounts signed by both - the auditee and the auditor shall be considered as “undisputed” audit fee.*

*.....”*

7.11 In view of above, the Committee was of the view that in case of audit fees of previous auditor reflecting in financial statement which has not been paid by the client, the incoming auditor shall not accept the audit. But in the instant matter, despite audit fees being outstanding, the Respondent accepted and conducted the audit of the Company. The Committee also noted that the word 'shall' in these Guidelines clearly indicate that payment of fees of previous auditor before acceptance of audit is mandatory precondition and subsequent payment, if any, is also not remedy for the same. The Respondent failed to bring on record any evidence that outstanding audit fees of previous auditor was paid by the Company before his acceptance of the audit for subsequent year. Hence, it is evident that the Respondent has violated the requirement of Chapter VII of the Council General Guidelines, 2008. Thus, the Respondent is **Guilty** of Professional Misconduct falling within the meaning of Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

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8 **Conclusion:**

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

Charges (as per PFO)	Findings	Decision of the Committee
Para 2.1 as given above	Paras 7.2 to 7.6 as given above	<b>GUILTY</b> - Clause (8) of Part I of the of First Schedule
Para 2.2 as given above	Paras 7.7 to 7.11 as given above	<b>GUILTY</b> - Clause (1) of Part II of the of Second Schedule

- 9 In view of the above observations, considering the oral and written submissions of the parties and material on record, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Clause (8) of Part-I of First Schedule and Clause (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

Sd/-  
(CA. PRASANNA KUMAR D)  
PRESIDING OFFICER

Sd/-  
(MS. DAKSHITA DAS, IRAS {RETD.})  
GOVERNMENT NOMINEE

Sd/-  
(ADV. VIJAY JHALANI)  
GOVERNMENT NOMINEE

Sd/-  
(CA. MANGESH P KINARE)  
MEMBER

Sd/-  
(CA. SATISH KUMAR GUPTA)  
MEMBER

DATE: 05<sup>th</sup> January 2026

PLACE: Noida

सत्यापित होने के लिए प्रमाणित / Certified to be True Copy

*Anju Grover*

अंजू ग्रोवर / Anju Grover

सहायक सचिव / Assistant Secretary

अनुशासनमूलक निदेशालय / Disciplinary Directorate

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The Institute of Chartered Accountants of India

आई.सी.ए.आई. भवन, सी-1, सेक्टर-1, नोएडा-201301 (उ.प्र.)  
ICAI Bhawan, C-1, Sector-1, Noida-201301 (U.P.)