



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/219/16/DD/232/2016/DC/1336/2020]

In the matter of:

Shri Ashok Kumar

Dy. Supdt. Of Police,

Central Bureau of Investigation

Govt. of India, EOU. I (EO-I)

5-B, 3rd Floor, CBI Headquarters CGO Complex, Lodhi Road,

New Delhi-110003

.... Complainant

CA. Nagesh Kumar (M.No.098778)

M/s Nagesh Behl & Co.,

Chartered Accountants,

Flat No. 24/9

Moti Nagar,

New Delhi-110015

.... 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 (In person)
4. CA. Mangesh P. Kinare, Member (Through VC)
5. CA. Satish Kumar Gupta, Member (Through VC)

DATE OF HEARING: 05th February 2026

DATE OF ORDER: 11th February 2026

1. That vide Findings dated 23rd January 2026 under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of



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Cases) Rules, 2007, the Disciplinary Committee was inter-alia of the opinion that **CA. Nagesh Kumar (M.No.098778)** (hereinafter referred to as the **Respondent**) is **GUILTY** of Other Misconduct falling within the meaning of Clause (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949.

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 05th February 2026.

3. The Committee noted that on the date of hearing on 05th February 2026, the Respondent was present in person. During the hearing, the Respondent made verbal submissions and also referred to the written representation dated 04th February 2026 on the Findings of the Committee. The Committee noted the verbal and written representation of the Respondent dated 04th February 2026 on the Findings of the Committee, which, inter alia, are as under:

- The allegation of "fraudulent cash withdrawals" was on transactions which happened in the year 2005, 2006 and 2007 from the ODBD account of the company, whereas the contentious sanction and disbursement of the Term loans and ODBD were in 2003-04, which made the contentious cash withdrawals out of the scope for any fraud as alleged.
- The cheques for withdrawing cash were drawn by the director, and the beneficiary and accounting entity with respect to the transactions of Rs 43.750 lakh was the company. So, the role of a "delivery person" by the Respondent did not constitute involvement in financial affairs of the company, in terms of any regulations.
- Another bench of the Hon Disciplinary Committee had held the Respondent not guilty vide its finding dated 10th February 2018 in another case (DC 376/2014) with identical facts in which the Respondent was auditor of another company of the same promoter.



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4. The Committee considered the reasoning as contained in Findings holding the Respondent Guilty of Other Misconduct vis-à-vis verbal and written representations 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. The Committee noted that the Respondent in his written submissions dated 08.01.2024 had mentioned that in respect of another case bearing no. (PR/G/418/2018-DD/362/2022) involving the Respondent with similar offence and facts, the Complaint case was closed under Rule 12. The Committee further noted that it is factual position that the case bearing no. (PR/G/418/2018-DD/362/2022) was closed under Rule 12 by Board of Discipline, whereas the instant case bearing no. PR/219/16/DD/232/2016/DC/1336/2020 was placed before the Board of Discipline for consideration in terms of Rule 12 and the Board of Discipline decided that the matter cannot be closed citing the provisions of Rule 12, and that the Respondent be asked to submit his written statement in terms of the provisions of DC Rules.

6. Thus, keeping in view the facts and circumstances of the case, material on record including verbal and written representations of the Respondent on the Findings, the Committee observed that the Respondent, along with his associate, had withdrawn cash aggregating to Rs. 43.75 lakhs from the bank account of the company at the request of its director, during the period in which the Respondent was serving as statutory auditor of the said company. The Committee further observed that the Respondent failed to furnish any documentary evidence to establish that the cash withdrawals were duly recorded in the books of account of the company or that the funds were utilized for legitimate business purposes, such as payment of salary and wages.

7. The absence of supporting records, coupled with the Respondent's admission regarding his involvement in the cash withdrawals, leads to the fact that the Respondent acted beyond the scope of his duties as a statutory auditor, thereby bringing disrepute to the profession. The evidence on record, including the statements of witnesses and the Respondent's own admission regarding his involvement in cash withdrawals from the company's ODBD account, establishes



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that the Respondent played a role in facilitating the withdrawal of funds. Hence, the Other Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 23rd January 2026 which is to be read in consonance with the instant Order being passed in the case.

8. 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 Other Misconduct.

9. Thus, the Committee ordered that the Respondent i.e. CA. Nagesh Kumar (M.No.098778), be REPRIMANDED and also imposed a fine of Rs. 25,000/- (Rupees Twenty-Five Thousand 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

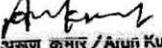
Sd/-
(MS DAKSHITA DAS IRAS (RETD.))
GOVERNMENT NOMINEE

Sd/-
(ADV VIJAY JHALANI)
GOVERNMENT NOMINEE

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

Sd/-
(CA. SATISH KUMAR GUPTA)
MEMBER

सत्यापित होने के लिए प्रमाणित / Certified to be True Copy


अरुण कुमार / Arun Kumar
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / 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.)

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/219/16/DD/232/2016/DC/1336/2020]

In the matter of:

Shri Ashok Kumar

Dy. Supdt. Of Police,

Central Bureau of Investigation

Govt. of India, EO.U. I (EO-I)

5-B, 3rd Floor, CBI Headquarters CGO Complex, Lodhi Road,

New Delhi-110003

.....**Complainant**

Versus

CA. Nagesh Kumar (M.No.098778)

M/s Nagesh Behl & Co.,

Chartered Accountants,

Flat No. 24/9

Moti Nagar,

New Delhi-110015

.....**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 : 19th November 2025

PARTIES PRESENT:

Counsel for the Respondent: CA. C. V. Sajan (Through VC)

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1. **Background of the Case:**

- 1.1 The Complainant department has registered case with reference no RC 219 2014 (E) 0006 EO-I on 28th May 2014 based on complaint received from Shri Ashok Kumar Aggarwal, DGM, Canara Bank, Circle office, Delhi against M/s. Mayurath Films Private Limited (hereinafter referred to as **the Company**), its Directors (Mr. Matang Sinh & Mrs. Manoranjana Sinh), the Respondent and unknown officials of Canara Bank, Janpath Branch.
- 1.2 During the year 2003-2007, they were involved in defrauding the Canara Bank by availing Term Loan of INR 5 Crore and Overdraft against the Book Debt (hereinafter referred to as the "ODBD") facility of INR 2 Crore. The Respondent was in criminal conspiracy with the other accused persons and have siphoned off/ diverted the amount from the term loan & ODBD facility of the Company to sister concerns and different fictitious companies/firms to defraud the bank.

2. **Charges in brief:**

- 2.1 The Respondent had withdrawn Rs. 29.88 Lakhs fraudulently in cash from the ODBD account of the Company and Rs. 13.87 Lakhs along with his associate Shri Amit Khurana through different transactions on the basis of cheques issued by Shri. Matang Sinh; one of the directors of the Company.
- 2.2 The Respondent while looking after the accounts of the Company was in criminal conspiracy with other accused persons, had prepared forged letters/ invoices to cheat the bank and certified such forged documents/ invoices to help the accused persons to get disbursements of Term Loan. The Respondent had got signed forged offer letter dated 02nd March, 2014 of M/s. HFCL for INR 50 Lacs from Kuldeep Yadav on instructions of Matang Sinh; one of the directors of the Company. Also, an invoice dated 07th May, 2004 for INR 15,10,102/- purported to be issued by Visual Technologies has been got signed by the Respondent from Shri Kuldeep Yadav in the name of the Vijay Arora and accordingly cheated the Canara Bank to get disbursements of Term Loan of the Company.

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3 The relevant issues discussed in the Prima Facie Opinion dated 16th March 2020 formulated by the Director (Discipline) in the matter in brief, are given below:

- 3.1. In respect of the first charge contained in para 2.1 above that the Respondent had withdrawn amounts from the ODBD account of the Company, as the name of the Respondent and his associate was clearly mentioned on the copies of cheques brought on record by the Complainant Department. On perusal of the statement of Shri Amit Khurana, associate of the Respondent, it was noted that he had accepted having acted on behalf of the Company as per the instructions of the Respondent. The Respondent failed to provide any evidence in his defense and remained silent with regard to the information and additional documents sought by the Directorate. It, however, emanated from the facts on record that the Respondent was involved in the internal affairs of the Company and was looking after the accounts of the Company.
- 3.2. The mere denial of the Respondent that he along with his associate had not withdrawn the enormous amount of INR 43,75,500/- from the bank account of the Company was not maintainable, as copies of cheques which were duly cleared in favour of the Respondent and his associate were on record as evidence. Thus, it was viewed that although the Complainant failed to substantiate the involvement of the Respondent in the opening of the bank account of the fictitious firm, M/s. ABC Enterprises with Dena Bank, Connaught Place, it was amply clear that the Respondent had played an implicit role in the said fraud conducted by the Directors of the Company, whereby amounts received as the Term Loan of INR 5 Crores and under the ODBD facility of INR 2 Crores during 2003–2007 from Canara Bank were diverted and siphoned off. The same was evident from the fact that huge amounts were received by the Respondent from the said Canara Bank, wherein loan amounts were also received by the Company, thereby pointing the needle of suspicion towards the acts of the Respondent. Accordingly, the Respondent was prima facie held **GUILTY** for the extant allegation falling under Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.
- 3.3. In respect of second charge as mentioned in para 2.2 above that the Respondent had certified forged documents/invoices based on which Canara Bank had issued Cheques/drafts to the various parties. It was observed that payments were made to

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the above parties; however, as per the investigation by the CBI, some of the parties were either fictitious and accounts were opened only for the purpose of siphoning of funds, or they had denied having entered into any such transactions as certified by the Respondent. Further, Praveen Patil, Director of Emerson Network Power (India) Pvt. Limited, had confirmed the receipt of Rs. 5,65,000/- from the Company, i.e., M/s MFPL, but he stated that material was not supplied to the Company and that it was supplied to M/s Positive Television Private Limited (PTPL), a sister concern of the alleged Company . Also, as per the statement dated 8th June, 2016 of Shri Ashok Kumar Gupta, M/s Paras Infotech Private Limited was created without any genuine business and only for the purpose of providing adjustment entries.

3.4. It was further noted that the investigation by the Complainant Department had revealed that fictitious accounts were opened in the name of different parties to enter into transactions with the Company with the sole purpose of siphoning/diversion of funds, and that the Respondent had certified the forged documents/invoices based on which the bank had issued cheques to different parties. The same was evident from the statement dated 8th June, 2016 of Shri Ashok Kumar Gupta, wherein M/s Paras Infotech Private Limited was stated to be one such entity opened for the purpose of making/providing adjustment entries to the Company. Further, the Respondent did not produce any other evidence or documents to substantiate his defence and had also failed to establish that he had duly verified the genuineness of the transactions as claimed in the invoices so certified by him. It was also felt that the Respondent had merely denied the allegations by stating that he had no knowledge of any forged invoices/documents. Therefore, the Respondent was held prima facie **GUILTY** of the Professional and other Misconduct for the said allegation of certifying the forged documents/invoices falling within the meaning of Clause (7) of Part I of Second Schedule and Clause (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949.

3.5. Accordingly, the Director (Discipline) in his Prima Facie Opinion dated 16th March 2020 opined that the Respondent is Prima Facie **GUILTY** of Professional and Other Misconduct falling within the meaning of Clause (2) of Part IV of the First Schedule and Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949. The said Clause of the Schedule to the Act, states as under:

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Clause (7) of Part I of the Second Schedule:

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

(7) does not exercise due diligence or is grossly negligent in the conduct of his professional duties."

Clause (2) of Part IV of the First Schedule:

"A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he:

(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work."

3.6. The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee in its meeting held on 16th July 2020. 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 is **GUILTY** of Professional and Other Misconduct falling within the meaning of Clause (2) of Part IV of the First Schedule and Clause (7) of Part I 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.

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:

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S. No.	Particulars	Dated
1.	Date of Complaint in Form 'I' filed by the Complainant	23 rd August 2016
2.	Date of Written Statement filed by the Respondent	09 th June 2017
3.	Date of Rejoinder filed by the Complainant	Not Filed
4.	Date of Prima Facie Opinion formed by Director (Discipline)	16 th March 2020
5.	Written Submissions/ Documents filed by the Respondent after Prima Facie Opinion	08 th January 2024 & 08 th September 2025
6.	Written Submissions filed by the Complainant after Prima Facie Opinion	Not Filed

5. Written Submissions filed by the Respondent:

5.1. The Respondent vide his written statements dated 08th January 2024 inter alia submitted as follows:

Preliminary objection raised by the Respondent:-

- i. That the Respondent, vide letter dated 14.11.2016, had specifically submitted that, in terms of Rule 12 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct of Cases) Rules, 2007 ("the 2007 Rules"), the present complaint is barred by limitation, as the alleged acts pertain to events that occurred more than twelve and a half years prior to the filing of the complaint.
- ii. That a plain reading of Rule 12 makes it clear that any one of the above conditions is sufficient for refusal of the complaint. There is no requirement under Rule 12 to consider the gravity of the allegations. Further, the investigation stood concluded upon filing of the charge-sheet, and therefore no investigation was pending as on the date of filing of the present complaint.

Submissions on the merits of the case

- iii. The Respondent has submitted that the entire loan was repaid in September 2010, prior to the registration of the FIR, and this is an admitted fact in the charge sheet. The Complainant has not provided complete information, as some pages are missing from the charge sheet.

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- iv. No officials of Canara Bank were involved in the alleged conspiracy, as mentioned in the CBI final report and charge sheet.
- v. The complaint was filed after six years from the date the loan was settled and after twelve years from the alleged act of professional misconduct. The event occurred in 2004, and the complaint was filed in August 2016. The CBI has not been able to make any progress in prosecuting the alleged accused, despite the lapse of nineteen years since the alleged crimes occurred.
- vi. Shri Matang Sinh, the prime accused, is no longer alive, and the company is now non-operational. The charges were politically motivated, as Shri Matang Sinh was a politician and a former Union Minister of India, and the allegations arose as a result of a matrimonial dispute between Shri Matang Sinh and his wife, Smt. Manoranjana Sinh.
- vii. The self-cheques referred to are self-cheques of ABC Enterprises. There is no evidence of cash withdrawal by way of self-cheques from the account in the name of M/s ABC Enterprises. In the absence of any evidence of cash withdrawal, there can be no allegation that the Respondent withdrew cash from the account of M/s ABC Enterprises. Instead of providing details of the alleged withdrawal of ₹77 lakhs in cash or otherwise, the Complainant has filed copies of cheques whereby cash of ₹29.88 lakhs and ₹13.87 lakhs was withdrawn from the ODBD account of MFPL. Thus, there is no linkage between the cash withdrawals from the account of ABC Enterprises and those from the account of MFPL.
- viii. The statement of Shri Amit Khurana reads: "... cheques were issued by the company for withdrawal of cash from the account, which was subsequently handed over by me at the residence of Shri Matang Sinh." Thus, it is clear that Shri Amit Khurana handed over the cash to Shri Matang Sinh, and no money was retained by Shri Amit Khurana, nor was any money given by Shri Amit Khurana to the Respondent.
- ix. The cash was withdrawn, but it was not a fraudulent withdrawal. There is evidence on record that Shri Matang Sinh had undergone a liver transplant and was unable to visit the bank. In the absence of any other person, and on the personal request of Shri Matang Sinh, the cash was withdrawn and handed back to him. This, by itself, does not constitute professional misconduct.
- x. The transactions amounting to ₹43.75 lakhs were in no manner linked to the alleged fraud involving ABC Enterprises.

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- xi. With regard to the second charge, the Respondent was not associated in any manner with activities connected to the raising of the loan or its utilization by the Company, except for issuing certified copies of invoices based on the originals examined by the Respondent. Original documents are the property of the client, and a Chartered Accountant cannot take custody of original invoices from the company as part of audit documentation.
- xii. Moreover, a period of seven years had elapsed, and due to this time lag, the Respondent is finding it difficult to produce evidence and effectively defend himself.
- xiii. The Company, M/s Mayurath Films Pvt. Ltd., is no longer functioning. It was not possible for the Respondent to secure evidence, as directed, including original invoices, since the original invoices were in the custody of the Company alone

5.2. The Respondent vide email dated 08th September 2025 submitted the proofs of payment of loan by the Company.

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:

S.No.	Date of meeting(s)	Remark
1	22 nd May 2023	Adjourned in the absence of Complainant and the Respondent
2	11 th July 2023	Part heard and adjourned.
3	16 th October 2023	Adjourned at the request of Respondent.
4	14 th December 2023	Adjourned at the request of Respondent.
5	26 th December 2023	Part heard and adjourned.
6	09 th January 2024	Adjourned at the Request of the Complainant
7	22 nd January 2024	Adjourned at the Request of the Complainant
8	10 th April 2024	Adjourned at the Request of the Complainant
9	23 rd September 2024	Adjourned at the request of Respondent.
10	09 th July 2025	Adjourned at the request of the Complainant and the Respondent
11	29 th July 2025	Adjourned at the request of Respondent.
12	26 th August 2025	Adjourned at the request of Respondent.
13	12 th September 2025	Part heard and adjourned.
14	15 th October 2025	Adjourned at the request of Respondent.

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15	03 rd November 2025	Adjourned at the request of Respondent.
16	19 th November 2025	Hearing concluded and decision taken

- 6.2 On the day of hearing held on 16th October 2023, 14th December 2023, 23rd September 2024, 29th July 2025, 26th August 2025, 15th October 2025 & 03rd November 2025 the Committee noted that Respondent had sought adjournment. Acceding to the request of Respondent, the Committee adjourned the case to a future date.
- 6.3 On the day of hearing held on 22nd May 2023, the Committee noted that both the parties were not present, nor any intimation was received from them. The office apprised the Committee that notice of listing of the case has been served upon both parties. Being first hearing of the case, the Committee adjourned the matter to future date to provide one more opportunity to the Complainant and the Respondent to substantiate/defend the charges. With this, the Committee adjourned the case to a later date.
- 6.4 One the day of hearing held on 11th July 2023, the Committee noted that the Respondent was present through Video conferencing mode. Thereafter, he gave a declaration that there was nobody present except him from where he was appearing and that he would neither record nor store the proceedings of the Committee in any form. Ms. Neelam Raj, Inspector from CBI, was present and appeared before the Committee. She apprised that she was yet to receive authorization from the Department at this time for appearance in this case before the Committee as concerned officer has been transferred to Mumbai region. The Committee directed her to appear before it with proper authorization from Complainant department at next meeting. Being first hearing of the case, the Respondent was put on oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges and charges against the Respondent were read out. On the same the Respondent replied that he is aware of the charges and pleaded Not Guilty to the charges levelled against him. In view of Rule 18(9) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee adjourned the case to later date.

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- 6.5 On the day of hearing held on 26th December 2023, the Committee noted that the Counsel of the Respondent was present through Video conferencing mode. Thereafter, he gave a declaration that there was nobody present except him from where he was appearing and that he would neither record nor store the proceedings of the Committee in any form. The Counsel for the Respondent submitted that due to medical emergency in the family of the Respondent, the Respondent could not file written submissions and hence sought adjournment to file the written submission. The Committee acceded to the request of the Counsel and adjourned the case to a later date.
- 6.6. On the day of hearing held on 09th January 2024, the Committee noted that the Respondent was present in person and the Complainant was present through Video conferencing mode. Thereafter, he gave a declaration that there was nobody present except him from where he was appearing and that he would neither record nor store the proceedings of the Committee in any form. Thereafter, the Committee noted that the case was part heard and the Respondent was already on oath. Before commencement of the captioned case, the Complainant submitted that he has received the copy of written submissions of the Respondent dated 08.01.2024 in the meeting of 09.01.2024 only, and hence he sought time to study the said written submissions of the Respondent. The Committee accepted the request of the Complainant and adjourned the case.
- 6.7. On the day of hearing on 22nd January 2024, the Committee the Complainant vide email dated 19.01.2024 sought an adjournment in the captioned matter. Acceding to the request of the Complainant, the Committee adjourned the case to a later date with a view to extend one final opportunity to the Complainant to substantiate the charges. With this, the case was adjourned to a later date.
- 6.8. On the day of hearing held on 10th April 2024, the Committee noted that the Respondent was present for the hearing. The Committee also noted that the Complainant was not present and vide e-mail dated 10/04/2024, he stated that due to some official work, he will not be available for the hearing scheduled before the Committee on 10/04/2024. The Committee noted that the case was part heard and the Respondent was already on oath. Thereafter, the Committee asked the

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Respondent to make submissions in his defense. The Respondent submitted that in the hearing held on 09.01.2024, the Complainant was required to file reply to his submissions dated 08.01.2024, which the Complainant has not filed till date and in the absence of the same, he would like to abstain himself from making any further submission before the Committee. The Committee, acceding to the request of the Complainant, adjourned the hearing in the captioned case to a future date. The Committee directed the office to inform the Complainant to appear before it at the time of the next listing and in case of his failure to appear, the matter be decided ex-parte the Complainant based upon the documents and materials available on record.

6.9. On the day of hearing held on 09th July 2025, the Committee noted that Respondent & Complainant both had sought adjournment. Acceding to the request of both, the Committee adjourned the case to a future date.

6.10. On the day of hearing held on 12th September 2025, the Committee noted that the Respondent along with his Counsel were present through video conferencing and appeared before it. The Committee enquired from the Respondent/Counsel for the Respondent that since the composition of the Committee had changed subsequent to the last hearing in this case, whether he wished to have a de-novo hearing or may continue from the stage it was last heard. The Counsel of the Respondent opted for de-novo hearing and accordingly the Respondent was administered on Oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges against him and then the charges as contained in prima facie opinion were read out. On the same, the Respondent replied that he is aware of the charges and pleaded 'Not Guilty' to the charges levelled against him. The Committee directed the Respondent/Counsel for the Respondent to make the submissions. The Respondent and his Counsel made submissions. The matter was part heard and adjourned.

6.11. On the day of hearing held on 19th November 2025 the Committee noted that Counsel for the Respondent was present through VC and appeared before it. The Committee noted that the Counsel for the Respondent sought to place certain additional submissions on record based on documents already filed earlier. The Counsel referred to a prior disciplinary matter decided by the Institute, wherein

proceedings were closed due to a substantial time lapse and non-availability of working papers beyond the prescribed retention period of seven years. It was submitted that the facts of the present matter were identical, including the period involved and the date of registration of the criminal case, and therefore the same principle and precedent should be applied.

- 6.12. The Counsel for the Respondent further submitted that the allegations against the Respondent arose from a criminal case involving diversion or misuse of loan funds and withdrawal of cash, which could be defended only through audit working papers that were no longer required to be preserved under the applicable rules. It was argued that the absence of working papers due to lapse of time made it impossible for the Respondent to lead evidence or rebut the allegations, thereby attracting the protection under the relevant investigation rules. Reliance was also placed on portions of the criminal charge sheet to demonstrate that the loan amounts had been repaid under a settlement and that the underlying allegations were criminal in nature, to be adjudicated only by a court of law.
- 6.13. The Counsel further contended that the charge of lack of due diligence under the professional misconduct provisions was misconceived, as the allegations pertained to criminal conspiracy and not to professional audit functions. It was submitted that mere withdrawal of cash on behalf of the company, which was duly recorded in the company's books, could not by itself constitute professional misconduct in the absence of proof of fraud or criminal intent.
- 6.14. The Counsel for the Respondent emphasized that disciplinary liability for criminal acts arises only upon conviction by a court of law, as provided under the relevant schedules of the governing statute.
- 6.15. 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.

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

7.1 The Committee noted that the Respondent has referred to the provisions of Rule 12 of the Chartered Accountant (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules 2007 which indicate time limit of 7 years on entertaining complaint or information in respect of any misconduct alleged to have been committed by the member of the Institute, and stated that the subject allegation raised by the Complainant pertain to the period which was more than seven years and hence need not be entertained in view of provision of Rule 12. The Committee in this regard noted that the Board of Discipline had already dealt with this matter. The Committee further noted that the matter was placed before the Board of Discipline for consideration in terms of Rule 12 of the Chartered Accountants (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007, and the Board of Discipline decided as under :

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"The Board on perusal of the papers on record noted that CBI i.e. the Complainant had specifically alleged that the Respondent got opened fictitious account in the name of M/s ABC Enterprises and approximately Rs. 77 lacs was diverted / siphoned off through this account. He in criminal conspiracy with other accused persons got prepared forged letters / invoices to cheat the bank. He certified such forged documents/invoices. He withdrew approximately Rs. 29.88 lacs from the ODBD account of M/s Mayurath Films Pvt. Ltd. and approximately 13.87 lacs through his associate Sh. Amit Khurana.

Further, after completion of investigation by CBI, the charge sheet has been filed against the Respondent in the matter along with other accused u/s 120B r/w Sec 420,467,468 and 471 of IPC and substantial offences thereof. Thus, keeping in view the gravity of the charges, the continued Investigation proceedings before the CBI and the provisions of Rule 12, the Board was of the view that the matter cannot be closed citing the provisions of Rule 12.

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Accordingly, the Board decided not to entertain the request of the Respondent and directed that the Respondent be asked to submit his Written Statement in terms of the provisions of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007".

The Committee noted that the issue related to Rule 12 had already been dealt with and decision taken, which has been communicated to the Respondent at the relevant time.

7.2 The Committee also noted the argument of Respondent that disciplinary proceedings should not be pursued in parallel with unresolved criminal proceedings, particularly when the proceedings in the criminal court have not concluded. The Committee, in this regard, observed that the scope of examination in a criminal case instituted pursuant to the complaint filed by CBI and the disciplinary proceedings initiated by Disciplinary Committee of ICAI pursuant to CBI's complaint are materially different. The Committee further noted that the Disciplinary Committee of ICAI is required to examine whether the conduct of the Respondent has met the professional standards as required of its members and/or whether the Respondent is guilty of misconduct. On overall consideration, the Committee was of the view that the scope of two proceedings is different. The Committee viewed that any delinquency in the professional standards or any acts of omission of professional standards/commission of professional misconduct is not the subject matter in a criminal trial and the same is required to be examined by Disciplinary Committee of ICAI. Thus, the Committee rejected the contention of the Respondent in this respect.

7.3 After dealing with preliminary objection of the Respondent, the Committee noted that there are two allegations against the Respondent in which has been held Prima Facie Guilty and same has been explained in para 2.1 and 2.2 above.

7.4 In respect of first charge, the Committee noted the submissions of the Respondent that he has withdrawn the said amount, at the request of Shri. Matang Sinh. The Respondent further submitted that Mr. Matang Sinh had undergone liver transplantation, and he was not able to visit the bank, and thus, he had given the cheques to the Respondent and his associate for withdrawal of cash. After cash

withdrawal, the same was handed over to Mr. Matang Sinh and same has been worded in the Statement of Mr. Amit Khurana recorded by the Complainant Department. He further submitted that there is no evidence, which could prove that said cash withdrawal amount was used by the Respondent.

- 7.5. In view of allegation and submissions of the Respondent, the Committee noted that it is apparent that the Respondent was the Statutory Auditor of the Company (M/s. Mayurath Films Private Limited), and the instant allegation is related to withdrawal of cash fraudulently by the Respondent and his associate. On perusal of documents on record, the Committee noted that there are six cheques amounting to Rs. 29.88 lacs which were issued in the name of the Respondent by Mr. Matang Sinh, Director of the Company wherein, the Respondent was auditor of said Company. The Committee further noted that two cheques amounting to Rs. 13.87 lacs were issued in the name of Mr. Amit Khurana, who was associate of the Respondent. In view of statement of Mr. Amit Khurana recorded by Complainant Department, the Committee noted that he had accepted to have withdrawn the cash against said cheques and he further stated in his statement to have handed over the cash to Mr. Matang Sinh. Details of such withdrawals are mentioned in the table given below :

S.no.	Cheque number	In the name of	Amount
1	730816	Nagesh	1,00,000/-
2	730820	Nagesh	2,38,000/-
3	169183	Nagesh	9,50,000/-
4	169187	Nagesh	7,50,000/-
5	169196	Nagesh	9,50,000/-
6	169184	Amit	4,62,500/-
7	237460	Amit	9,25,000/-

- 7.6. On the basis of above, the Committee was of the view that it is very clear that the Respondent and his associate had withdrawn cash from the bank account of the company at the request of the Director, the total amount of which arrived to Rs. 43.75 lacs, wherein the Respondent was also Statutory Auditor of the company for the same period.
- 7.7. The Committee noted that it is undisputed that the Respondent withdrew cash amounting to Rs. 43,75,500 from the Overdraft Against Book Debts (ODBD) account of Mayurat Films Private Limited. The Respondent admitted to acting on the

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instructions of the company's director, to withdraw cash and then delivered it to the director of the company. The Respondent also acknowledged that these transactions were recorded in the company's cash book, which is no longer available due to lapse of time.

- 7.8. While the Respondent argued that his actions were limited to assisting the company due to ill health of its director and in the absence of other personnel in Delhi, the Committee noted that the Respondent's involvement in the financial affairs of the company went beyond the scope of his professional duties as an auditor. The Respondent's associate, Mr. Amit Khurana, stated that the Respondent was actively involved in the financial operations of the company, including handling banking activities. The Committee observed that this level of involvement compromised the independence expected of a statutory auditor and constitutes a failure to maintain professional objectivity.
- 7.9. The Committee further observed that the Respondent failed to provide any evidence to demonstrate that the cash withdrawals were properly recorded in the company's books of accounts or that the funds were utilized for legitimate purposes such as salary and wages. The absence of such evidence, coupled with the Respondent's admission of his role in the cash withdrawal, leads the Committee to conclude that the Respondent acted beyond the scope of statutory auditor and has thereby brought disrepute to the profession.
- 7.10. The Committee also observed that the evidence presented, including the statements of witnesses and the Respondent's own admission of involvement in cash withdrawals from the company's ODBD account, establishes that the Respondent played a role in facilitating the withdrawal of funds. The Respondent argued that the funds were duly recorded in the company's cash book and used for legitimate purposes by sending it to meet the expenditure incurred by the Company in North East, where the Company had operations. The Committee viewed that the absence of working papers and supporting documentation to substantiate this claim undermines the defense of the Respondent. Further, the respondent failed to explain as to why such large amount of cash had to be withdrawn and transferred to other states when legitimate banking channels were available for such transfers. In view of above, the Committee felt that such large cash withdrawals raise serious doubts

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about its end use and the fact that such withdrawals were done by the Auditor (and his associate) really brings bad name for the profession. The Committee is therefore of the view that such act of the Respondent has brought disrepute to the profession.

- 7.11 In view of above findings of law, the Committee holds the Respondent **GUILTY** of Other Misconduct for his involvement in the cash withdrawals being statutory auditor of the company, bringing disrepute to the profession. Accordingly, the Committee held the Respondent **GUILTY** of Other Misconduct falling within the meaning of Clause (2) of Part IV of the First Schedule to the Chartered Accountant Act 1949.
- 7.12 In respect of second allegation that the Respondent had certified forged documents / invoices based on which Canara bank had issued Cheques/drafts to various parties, the Committee noted the submissions of the Respondent wherein he has submitted that he was not at all associated with any activities connected to the raising of loan or its utilization by the Company, other than issuing certified invoice copies based on originals examined by the Respondent. He further submitted that original documents are the property of the client and a Chartered Accountant cannot take original invoices from the company as part of his audit documentation. Thereafter, he provided the proof of repayment of loan well before filing of subject case by the Complainant Department.
- 7.13 On the basis of above submissions of the Respondent, the Committee was of the view that it is apparent that the loan had been repaid by the Company on 04/02/2013 before filing of this complaint on 23/08/2016 and the Respondent has brought on record a letter of the bank to this effect. However, the Committee is inclined to investigate the misconduct of the Respondent (if any) as alleged by the Complainant. In view of papers/documents on record, the Committee was of the view that it is an admitted fact that the Respondent had certified documents/invoices based on which Canara Bank had issued Cheques/drafts to the various parties. The Complainant had produced the copy of receipt letters in the name of Raja Sahib Production, School Drama dated 9th January, 2004, Paras Infotech private Limited, Emerson Network Power and Tatwa to substantiate the allegation, which were duly certified as true copy by the Respondent. The Respondent in his Written Statement stated that he

had signed the above documents/invoices based on its original as true copy with a belief that the original was in order.

7.14 On perusal of documents as available on records, the Committee observed that payments were made to parties but as per investigation by the CBI, some of these parties were either fictitious and their bank account was opened only for the purpose of siphoning of funds, or they have denied having entered into any such transactions as certified by the Respondent. Further, Shri Praveen Patil, Director of the Emerson Network Power (India) Pvt Limited had confirmed the receipt of Rs 5,65,000/- from the Company i.e. M/s. MFPL but he stated that material was not supplied to the company while it was supplied to M/s Positive Television Private Limited (PTPL), a sister concern of alleged Company. Further, the Committee perused statement dated 8th June, 2016 of Shri Ashok Kumar Gupta, M/s. Paras Infotech Private Limited, wherein he had stated that said Company was created without any genuine business and only for the purpose of providing adjustment entries.

7.15 The Committee noted that the Complainant relied on statements from third parties, including former employees of the alleged fictitious companies, to assert that the documents were forged or related to non-existent entities. However, these statements were not corroborated through substantive evidence. The Committee observed that even the Complainant has not alleged that the Respondent was involved in the creation or operation of the alleged fictitious entities but the allegation was that he had only certified invoices etc. of few such entities. The Committee was of the view that it would be farfetched to hold the Respondent responsible for the non-genuineness of the payee entities when he has been asked only to certify the copies of invoices from the Originals. Therefore, in the absence of substantive evidence to establish fraudulent intent or any specific instance of professional misconduct on the part of Respondent, the Committee decided to hold the Respondent **NOT GUILTY** in respect of the allegation related to certifying invoices, falling within the meaning of Clause (7) of Part I of Second Schedule and Clause (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949.

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7.16 In view of the above findings, the Committee held the Respondent **GUILTY** of "Other Misconduct" falling within the meaning of Clause (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

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 7.3 to 7.11 as given above	GUILTY – as per Clause (2) of Part IV of the of First Schedule
Para 2.2 as given above	Paras 7.12 to 7.15 as given above	NOT GUILTY – as per Clause (7) of Part I of the of Second Schedule and Clause (2) of Part IV of the of First Schedule

9. In view of the above observations, considering the oral and written submissions of the Respondent and material on record, the Committee held the Respondent **GUILTY** of Other Misconduct falling within the meaning of Clause (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949.

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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: 23rd January 2026

PLACE: Noida

सत्यापित होने के लिए प्रमाणित / Certified to be True Copy

Anju Grover
अंजू ग्रोवर / Anju Grover
सहायक सचिव / Assistant Secretary
अनुशासनमक विभाग / Disciplinary Directorate
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