BOARD OF DISCIPLINE

(Constituted under Section 21A of the Chartered Accountants Act 1949)

FINDINGS OF THE BOARD OF DISCIPLINE UNDER RULE 14 (9) READ WITH RULE 15 (2) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007

FILE No: PR/138/2023/DD/211/2023/BOD/839/2025

CORAM: (Present in Person)

CA. Babu Abraham Kallivayalil, Presiding Officer
Dolly Chakrabarty, Government Nominee
CA. Pankaj Shah, Member

IN THE MATTER OF:

SHRI ASHOK KUMAR AGARWAL
27 Block, Shivanand Nagar
Khamtari
RAIPUR.. Complainant

Versus

CA. NARESH KUMAR AGARWAL (M. No. 072709)
A-24, First Floor
Shri Mahabir Goushala Complex
K.K. Road, Moudhapara
RAIPUR ....Respondent

Date of Final Hearing	:	21st May 2026
Place of Final Hearing	:	ICAI Bhawan, New Delhi
Date of Pronouncement of Judgment	:	27th July 2026

PARTIES PRESENT: (In person)

Respondent	:	CA. Naresh Kumar Agarwal
Counsel for the Respondent	:	CA. Mohita Khanna

FINDINGS:

BACKGROUND OF THE CASE:

1. It is stated in the Complaint that the Complainant, who is one of the four real brothers of the Respondent, has filed the present Complaint against the Respondent. The Complainant has alleged that during the period from 1997 to 2009, the Respondent entered into an arrangement with a Korba, Chhattisgarh-based construction company, namely M/s A.P. Nirman Limited (hereinafter referred to as the "Company"), pursuant to a Special Power of Attorney dated 14 July 1997. The Company was engaged in

construction activities and had undertaken certain contract works on behalf of the Madhya Pradesh Electricity Board during the aforesaid period.

2. The Complainant has further alleged that, under the said arrangement, the Respondent was involved in the execution of contract works valued at approximately Rs.14 crore at the Sanjay Gandhi Thermal Power Station (SGTPS), Birsinghpur Pali, Madhya Pradesh. It has been alleged that the Respondent resided in the residential quarters of the thermal power station during the relevant period and received substantial payments from the Company in connection with the contractual arrangement. The Complainant has further stated that, during the same period, the Respondent continued to carry on his professional practice as a Chartered Accountant, including undertaking statutory audit assignments of various entities in Raipur. According to the Complainant, the Respondent also acted on behalf of the Company in various financial and administrative matters, including opening and operating bank accounts and signing official bills and documents under the authority conferred by the Special Power of Attorney, using the Company's letterhead and seal. The Complainant has submitted that these facts are borne out from documents obtained from the Madhya Pradesh Electricity Board/Sanjay Gandhi Thermal Power Station and contends that the aforesaid conduct constitutes professional and ethical misconduct on the part of the Respondent.

CHARGE ALLEGED:

3. The Complainant has alleged that the Respondent has misused his professional standing as a Chartered Accountant to facilitate various acts on behalf of the Company including the opening of bank accounts and signing of bills, all under the authority of the Power of Attorney, executed in his favour by the Company. These actions were purportedly conducted using the letterhead and rubber stamp of M/s A. P. Nirman Limited, indicating his deep involvement in the operational and financial affairs of the said Company. The Complainant has thus alleged that such conduct amounts to gross professional misconduct and is in violation of the provisions and ethical standards prescribed under the Chartered Accountants Act, 1949.

BRIEF OF PROCEEDINGS HELD:

4. The details of the hearing fixed and held in the instant matter are given as below:

S. No.	Date of Hearing	Status of hearing
1.	21st May 2026	Matter heard and concluded. Judgement Reserved.

SUBMISSION OF THE RESPONDENT:

5. The Respondent, in his written statement, has denied all allegations of professional misconduct and has contended that the complaint is false, misconceived and motivated by personal and family disputes rather than any genuine concern relating to professional ethics. It was submitted that the allegations pertain to events allegedly occurring between 1997 and 2009, whereas the complaint was filed only in the year 2023 after an unexplained delay of nearly fourteen years. According to the Respondent, such extraordinary delay has seriously prejudiced his defence and renders the complaint liable to be dismissed on the ground of delay and laches.

6. The Respondent further submitted that he is a senior Chartered Accountant with an unblemished professional record spanning several decades and that no disciplinary proceedings or adverse findings have ever been recorded against him. It was contended that he never had any professional engagement, employment relationship, consultancy arrangement or commercial association with M/s A.P. Nirman Ltd. According to him, any assistance rendered to the company was purely occasional, informal and voluntary in nature, arising solely from longstanding family relations and goodwill towards the Directors of the company and his late elder brother, who was associated with the company.

7. In support of his defence, the Respondent relied upon an affidavit of a Director / authorized representative of M/s A.P. Nirman Ltd., wherein it has been affirmed that the Respondent was never appointed as an employee, consultant, auditor or professional advisor of the company and that no remuneration, salary, fees, commission or professional consideration was ever paid to him. It was further stated in the affidavit that certain limited authority had been conferred upon the Respondent through a Board Resolution and Special Power of Attorney for carrying out specific routine and administrative acts on behalf of the company owing to practical difficulties faced by the company at the relevant time.

8. The Respondent contended that the mere existence or occasional use of a Special Power of Attorney does not constitute professional misconduct under the Chartered Accountants Act, 1949. It was argued that a Power of Attorney is merely an instrument of authorization and cannot, by itself, establish a professional relationship or misconduct unless supported by evidence of professional impropriety, wrongful gain, fraud, negligence or violation of statutory obligations. According to the Respondent, the acts allegedly performed by him were limited, infrequent and undertaken only in a representative capacity without any professional or financial benefit.

9. The Respondent also submitted that the complaint is a direct consequence of longstanding family and property disputes between him and the complainant. In this regard, reliance was placed on proceedings before the Hon'ble High Court and other documents which, according to the Respondent, demonstrate the existence of disputes among family members. It was argued that the disciplinary mechanism should not be used as a tool for settling personal scores or pursuing private disputes.

10. The Respondent further denied allegations regarding his residence and the educational background of his sons, contending that such allegations were factually incorrect and unsupported by evidence. Documents relating to the educational records of his sons were produced to demonstrate that they had pursued their studies at institutions situated in Raipur, Durg, Bhilai, Kota and Pune, contrary to the assertions made in the complaint.

11. The Respondent also emphasized that the complainant unfortunately passed away during the pendency of the proceedings. According to the Respondent, the demise of the complainant has caused serious prejudice to his defence, as he has been deprived of the opportunity to effectively cross-examine the complainant and challenge the allegations made against him.

12. Regarding the documentary evidence relied upon in the complaint, the Respondent disputed the authenticity and evidentiary value of the alleged "kachcha papers", contending that they are unsigned, unauthenticated, unsupported by forensic

examination, handwriting analysis or independent corroboration, and therefore cannot form the basis of any adverse finding in disciplinary proceedings.

13. The Respondent further argued that there is no evidence on record to establish that he derived any pecuniary benefit, remuneration, salary, fees, commission or other financial advantage from M/s A.P. Nirman Ltd. According to him, the complete absence of any financial consideration supports his contention that he was never professionally engaged by the company and had merely rendered voluntary assistance as a family acquaintance. On the aforesaid grounds, the Respondent prayed that the disciplinary proceedings be dropped and that it be held that no case of professional misconduct under the Chartered Accountants Act, 1949 has been made out against him.

OBSERVATIONS OF THE BOARD:

14. The Board has carefully considered the documents available on record and the submissions made by the Respondent during hearing. The issue that falls for consideration is whether the Respondent, while holding a Certificate of Practice, was engaged in full-time employment or was otherwise involved in the day-to-day affairs of M/s A.P. Nirman Ltd. in a manner that would amount to professional misconduct under the provisions of the Chartered Accountants Act, 1949.

15. It is pertinent to note that the Complainant, who was the real brother of the Respondent, unfortunately passed away on 10th January 2024. Consequently, the Board was deprived of the opportunity to seek any further clarification or explanation from the Complainant in respect of the allegations made in the complaint. The Board further notes that the present complaint has arisen in the backdrop of an ongoing family dispute between the parties, who are real brothers. The Board is, therefore, conscious that such disputes may, at times, be accompanied by personal grievances or strained familial relations. In these circumstances, the Board has examined the allegations with utmost care, caution and objectivity and has confined its consideration strictly to the material, documentary evidence, and other records available before it, without being influenced by the underlying family discord or any extraneous considerations.

16. The foundation of the complaint rests primarily on a Special Power of Attorney executed in favour of the Respondent by M/s A.P. Nirman Ltd. and certain documents signed by him during the relevant period. The Respondent has candidly admitted that the Power of Attorney was executed in his favour and that he had signed certain documents pursuant to the authority granted thereunder. It is noted that the Special Power of Attorney is unregistered and is not legally enforceable under Law and was executed for convenience purpose of the Company. Further, his case, however, has consistently been that such authority was conferred because of his experience in matters relating to the work undertaken by the company and that any assistance rendered by him was occasional and limited in nature. According to the Respondent, he was never employed by the company and merely assisted whenever his help was sought.

17. Mere existence of a Power of Attorney is not sufficient to conclude that the Respondent was in full-time employment or actively managing the affairs of a company. The real question is whether the Respondent was in fact involved in the day-to-day functioning, management or administration of the company to such an extent that it would be inconsistent with his status as a Chartered Accountant in practice.

18. On a careful examination of the record, the Board finds that no appointment letter, employment agreement, salary record, attendance register, service record, remuneration statement or any other contemporaneous document has been produced to establish that the Respondent was employed by M/s A.P. Nirman Ltd. or was functioning therein on a full-time basis. There is also no evidence showing that he held any designated position in the company.

19. Apart from a few documents bearing the Respondent's signatures, there is little material on record to indicate any continuous or regular involvement in the affairs of the company. No evidence has been brought to show that the Respondent supervised employees, participated in management decisions, maintained the company's accounts, controlled its finances, operated its bank accounts or otherwise discharged responsibilities ordinarily associated with the day-to-day conduct of business.

20. During the hearing, the Board specifically questioned the Respondent regarding the scope of his involvement with the company. The Respondent stated that he had never operated any bank account of the company, had not signed cheques on its behalf, had not received any remuneration or financial benefit and had not participated in its day-to-day affairs. He maintained that his role was confined to occasional assistance and supplementary checking of certain matters whenever requested.

21. In order to place these assertions on record in a formal manner, the Board directed the Respondent to file an affidavit confirming that he had not received any remuneration, benefit or consideration from the company; that he had neither operated any bank account nor signed any cheque on behalf of the company; and that he was not involved in its day-to-day affairs and had only undertaken assignments occasionally as and when required.

22. The Respondent duly complied with the directions of the Board and filed the desired affidavit. Significantly, no material has been placed on record to contradict the statements made therein. The Board also takes note of the affidavit filed by the Director/authorized representative of M/s A.P. Nirman Ltd., wherein it has been affirmed that the Respondent was never appointed as an employee or consultant of the company and that no salary, remuneration, professional fees, commission or other consideration was ever paid to him.

23. Another aspect that cannot be overlooked is that the allegations span a considerable period. If the Respondent had in fact been functioning in a full-time capacity or had been deeply involved in the management of the company, one would ordinarily expect substantial documentary evidence reflecting such involvement. However, the material produced consists only of a limited number of documents signed by the Respondent under the authority conferred upon him. Standing alone, these documents do not establish that he was managing the affairs of the company or functioning as its employee.

24. The Board is therefore unable to accept the proposition that the mere execution of a Power of Attorney or occasional signing of documents, without anything more, is sufficient to establish professional misconduct. A finding of misconduct must rest on credible evidence demonstrating actual engagement in employment or management

activities prohibited under the Chartered Accountants Act, 1949. Such evidence is absent in the present case.

25. Having considered the matter in its entirety, including the documents on record, the submissions made during the hearing and the affidavit filed pursuant to the directions of the Board, it is not possible to conclude that the Respondent was in full-time employment, received remuneration from the company, exercised financial authority, or was involved in the day-to-day management of M/s A.P. Nirman Ltd.

26. In view of the foregoing discussion, the Board is of the considered opinion that the allegations levelled against the Respondent have not been established. Accordingly, no case of professional misconduct under the Chartered Accountants Act, 1949 is made out against the Respondent. The Respondent is therefore held **'Not Guilty'** of the charge levelled against him.

CONCLUSION:

27. Thus, in conclusion, in the considered opinion of the Board, the Respondent is **'Not Guilty'** of Professional Misconduct falling within the meaning of Item (11) of Part I of First Schedule to the Chartered Accountants Act, 1949. Accordingly, the Board passed an Order for closure of the case in terms of the provisions of Rule 15 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

28. Ordered accordingly. The case stands disposed of.

Sd/-
CA. Babu Abraham Kallivayalil
Presiding Officer

Sd/-
Dolly Chakrabarty, IAAS (Retd.)
Government Nominee

Sd/-
CA. Pankaj Shah
Member

सत्यापित होने के लिए प्रमाणित / Certified to be True Copy

नीलम पुंडीर / Neelam Pundir
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
भारतीय सनदी लेखाकार संस्थान
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