CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2026-2027)]
[Constituted under Section 21B of the Chartered Accountants Act,1949]

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

File No:- [PR/187A/2021/DD/203/2021/DC/1832/2023]

In the matter of:
Mr. Prakash Kulkarni
Flat No 13, Building 3A, Wing A2,
New Ajantha Avenue,
Off Paud Road, Near Krishna Hospital,
Kothrud,
Pune-411038

.....Complainant

Versus

CA. Vinayak Pandurang Phadke (M.No.100811),
103, Megh Apartments,
C S No 39/33, Near Kaka Halwai,
Prabhat Road,
Pune–411004

.....Respondent

MEMBERS PRESENT:
CA. Prasanna Kumar D, Presiding Officer (In person)
CMA Chandra Wadhwa, Government Nominee (In person)
CA. Mahesh Shah, Government Nominee (In person)
CA. Satish Kumar Gupta, Member (In person)

DATE OF FINAL HEARING : 14th May 2026
DATE OF DECISION TAKEN : 25th July 2026
DATE OF PRONOUNCEMENT OF DECISION : 29th August 2026

PARTY PRESENT:
Complainant : Mr. Prakash Kulkarni (Through VC)
Respondent : CA. Vinayak Pandurang Phadke (Through VC)
Counsel for Respondent : CA. Sharad Atmaram Vaze (Through VC)

1. **Background of the Case:**

1.1. The Complainant and the Respondent were resident of a housing society named "Nav-Ajantha Co-operative Housing Society Ltd.in Pune (hereinafter referred to as the "Society"). The Complainant observed from the notice board in the Society that the Respondent along with CA. Shreedhar Narayan Pathak were appointed as 'Internal auditors' on 20.02.2018. The Complainant, the Respondent and CA. Pathak were duly elected members of the Managing Committee of the Society at different points of time. The Respondent was also member of the Administrative Committee of the Society.

2. **Charges in brief:**

2.1. As per notice dated 23.02.2018 which was put up on notice board of the Society, the Respondent along with CA. Shreedhar Narayan Pathak were appointed as Internal Auditor of the Society, in their professional capacity, in violation of clause 141(d) of Bye-laws of the Society.

3. **The relevant issues discussed in the Prima Facie Opinion dated 13th October 2023 along with initial Prima Facie Opinion dated 25th April 2023 formulated by the Director (Discipline) in the matter in brief, are given below:-**

3.1. The Director (Discipline) in his Prima facie opinion dated 25th April 2023 observed that the Respondent had given his report on the issue related to specific inquiry into individual items and review of compliance with laws & regulations which was duly covered in the scope and objective of Internal Audit as mentioned in SA-610 issued by ICAI. Further, the resolution passed by the Administrative Committee and the appointment letter clearly mentioned that the Respondent had been appointed as Honorary Internal Auditor of the Society. Merely not charging fees for conducting the internal audit and not disclosing himself as a Chartered Accountant in the internal audit report did not absolve the Respondent from the duty of ensuring compliance with the Bye-laws of the Society related to the appointment of Internal Auditor of the Society, specifically when the appointment letter and the resolution passed by the Administrative Committee talked about the appointment of an Internal Auditor.

3.2. That the appointment of Internal Auditor had to be made at the Annual General Meeting of the Society and not at the meeting of the Administrative Committee. Further, the Respondent did not mention a single word in his report stating that he was issuing the report in his capacity as a member of the Society. Accordingly, the submissions of the Respondent that since he had issued the report in his personal capacity, he was not required to ensure compliance, were not tenable. Hence, it appeared that the Respondent had not exercised due diligence before accepting the position of Internal Auditor of the Society. Thus, he was held prima facie guilty of Professional Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

3.3. The Prima Facie Opinion dated 25th April 2023 formed by Director (Discipline) was placed before the Disciplinary Committee at its 496th held on 22nd June 2023. After consideration of the said Prima Facie Opinion, the Committee in terms of provisions of Rule 9(2)(c) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules 2007, decided to refer-back the matter to the Director (Discipline) to further investigate the matter considering the following observation/direction of the Committee:

(a) Law relating to the appointment of the Administrative Committee by the Registrar of the Cooperative Societies.

(b) Power of the Administrative Committee regarding the appointment of internal auditor without the approval of the Registrar of Cooperative Societies.

(c) Can the Internal Auditor be appointed by the Administrative Committee without being approved / authorized by the AGM.

(d) Whether the appointment of the Respondent as per the appointment letter was for conducting Internal Audit or was merely for fact finding.

3.4. Accordingly, the in compliance with the aforesaid directions given by the Disciplinary Committee , the case has been re-examined by the Director (Discipline) in his Prima Facie opinion dated 13th October 2023 which is as under:-

3.5. As regards the first direction, it was observed that the Respondent had stated in his submission that Mrs. Galande Patil, an officer of the Cooperative Department, Maharashtra, was appointed as the Administrator. Further, two members of the Society, namely CA Vinay Ganoo and Mrs. Rachna Dhopeshwar, were appointed by the Registrar (sic, RCS) as members of the Administrative Committee. Hence, it was viewed that the Administrative Committee was constituted by the Registrar of Cooperative Societies under Section 77A of the Maharashtra Cooperative Societies Act, 1960.

3.6. It was further noted that the Registrar of Societies is empowered to appoint an Administrative Committee where the existing Managing Committee of a society fails to elect new members or where a new committee cannot be constituted before the expiry of the term of the existing committee. The said fact was also established from the letter dated 12.04.2018 issued by the Deputy Registrar of Co-operative Societies, Pune, wherein it was stated that the Board of Directors/Managing Committee of the Society had been dismissed due to lack of quorum and that, vide Order dated 05.02.2018, an Administrative Committee had been appointed to look after the affairs of the Society.

3.7. With respect to second direction, it was observed that Section 77A(2) provides power to such committee /administrator appointed to work for interest of the society subject to the control of Registrar. Further, on perusal of the reply of the Registrar to the members of the society dated 12.04.2018, it was noted that the Administrative Committee neither had any authorization nor any instruction(s)/prior approval from the Registrar for appointment of Internal Auditor.

3.8. With respect to the third direction, considering the provisions of the Bye-laws of the Society as well as the MCS Act, it was clear that the Internal Auditor could only be appointed by the General Body of the Society. Moreover, the Respondent himself, in his written statement, had admitted that, as per the Bye-laws of the Society, the Internal Auditor was required to be appointed by the General Meeting. Further, there did not appear to have been any direction from the Registrar to convene a General Body Meeting of the Society for the appointment of an Internal Audit.

3.9. With respect to the fourth direction, it was observed from the appointment letter that the Respondent was appointed as Honorary Internal Auditor for doing Internal Audit for the year 2017-18. There was no mention of the point in the appointment letter that it was made merely for fact finding.

3.10. It was clear that the Respondent had been appointed as the Internal Auditor of the Society by the Administrative Committee in violation of the requirement of Rule 141 of the Bye-laws of the Society. Further, there was no reference in any letter issued by the Administrative Committee or in the minutes of its meetings indicating that the Respondent and CA. Shreedhar Narayan Pathak had been appointed merely to provide their views on certain facts. On the contrary, the documents on record referred to the Respondent and CA. Shreedhar Narayan Pathak as the Internal Auditors of the Society.

3.11. The Respondent, despite being aware that his appointment had been made as the Internal Auditor of the Society and not as a fact-finder, and despite every letter and notice referring to him as a Chartered Accountant, had accepted the position and did not appear to have sought any clarification from the Administrative Committee regarding the nature of his appointment at any point in time. Further, it was also pertinent to mention that the report issued by the Respondent fell within the scope and objectives defined under SA 610 (Using the Work of Internal Auditors), as discussed in the earlier PFO dated 25.04.2023 (as enclosed). The Respondent, being a practicing Chartered Accountant, had not mentioned a single word in his report stating that he was issuing the report in his capacity as a member of the Society and not in his professional capacity. Therefore, no benefit could have been extended to the Respondent in the extant matter at this stage. Further, the mere fact that no fees had been charged did not absolve the Respondent of the duty to ensure compliance with the provisions of the Bye-laws as well as the provisions of the governing Act.

3.12. Accordingly, the Director (Discipline) in his Prima Facie Opinion dated 13th October 2023 in reiteration of the views expressed in earlier Prima Facie Opinion dated 25th April 2023 held the Respondent Prima Facie GUILTY of Professional Misconduct falling within the meaning of 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:

Clause (7) of Part-I of Second Schedule

"A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he–

x x x x x x

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

3.13. The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee in its meeting held on 14th December 2023. The Committee on consideration of the same, concurred with the reasons given and reiteration of view expressed in earlier Prima Facie Opinion dated 25th April 2023 against the charges 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 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. <u>Date(s) of Written Submissions/Pleadings by parties:</u>

4.1 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	30th June 2021
2.	Date of Written Statement filed by the Respondent	27th August 2021
3.	Date of Rejoinder filed by the Complainant	28th September 2021
4.	Date of Prima Facie Opinion formed by Director (Discipline)	13th October 2023 and 25th April 2023
5.	Written Submissions filed by the Respondent after Prima Facie Opinion.	22nd February 2024, 22nd April 2024 and 04th June 2024
6.	Written Submissions filed by the Complainant after Prima Facie Opinion.	29th February 2024, 26th April 2024 and 07th June 2024

5. **Written Submissions filed by the Respondent after Prima Facie Opinion:**

5.1 The Respondent vide his letter dated 22nd February 2024, inter-alia, made the submissions which are given as under: -

i The Respondent was never a member of the Administrative Committee appointed by the Registrar of Co-operative Societies.

ii He acted in the capacity of a member of the Society and not in any professional capacity.

iii He did not carry out the work in the course of his professional duties or practice, but solely as an honorary member of the Society; therefore, Item No. 7 of Part I of the Second Schedule is not applicable in the instant case.

iv As per sub-clause (a) of Rule 141 of the Bye-laws of the Society, in order to qualify as a Statutory Auditor, the auditor must be appointed from the panel of auditors approved by the State Government.

v Sub-clause (b) of Rule 141 of the Bye-laws of the Society specifies the responsibility of the Committee to get the accounts audited within six months from the close of the financial year, while sub-clause (c) prescribes the remuneration payable to the Statutory Auditor. Further, sub-clause (d) enables the Society to appoint any person as the Internal Auditor of the Society for auditing its accounts.

vi He neither audited the books of the Society nor commented upon the books of accounts, which is a basic prerequisite for an audit under sub-clause (d) of Bye-law 141.

vii The internal audit of any Society cannot be concluded merely based on examining a few pages of the cash book, general ledger, or any other book of accounts.

viii The nature of the work undertaken was limited to fact-finding and providing advice to the Administrative Committee on the specific matters referred to him.

ix He submitted a report, along with CA Shreedhar Pathak, on the following three issues:

a) To provide advice on the re-employment application of Mr. Ashok Jadhav submitted to the Society.

b) To provide advice on whether the contract with Track-On Alternative Solutions would be beneficial to the Society.

c) To verify and report whether the Managing Committee meeting was held on the particular day in dispute among the old Managing Committee members.

x The Respondent referred to the Statutory Audit Report of the Society for the financial year 2017–18 and stated that, at Serial No. 8, the Statutory Auditors had unequivocally observed that there was no internal audit system in the Society for FY 2017–18. The said observation of the Statutory Auditors was never objected to by the Society.

xi The term "Internal Audit" was used by the Administrative Committee; however, it did not correspond to the actual meaning of the term "Internal Auditor" as contemplated under the Maharashtra Co-operative Societies (MCS) Act, Rules, and Bye-laws. The said nomenclature was used merely for the sake of easy understanding by the members of the Society.

xii Even assuming, without admitting, that any professional misconduct is made out, the same would, at best, fall under Clause (9) of the First Schedule to the Chartered Accountants Act, 1949. Although the aforesaid provision specifically refers to the Companies Act, the same analogy ought to be applied to the appointment of an auditor under the MCS Act, 1961.

5.2 The Respondent vide his letter dated 22nd April 2024 while reiterating his submissions dated 22nd February 2024, inter-alia, submitted his submissions along with the annexures, which are given as under: -

i The Respondent stated that his appointment was not for 'internal audit but was for looking into certain matters of the society. This fact has been substantiated by the Clarificatory letter issued by the Chairperson of Administrative Committee - Officer of the Department of Cooperation, Government of Maharashtra.

ii That the Complainant had earlier filed a copy of the complaint made to the Deputy Registrar of Co-operative Societies along with the reply received from the said authority. However, while submitting the English translation thereof, the Complainant translated only a few lines of the reply instead of placing the complete translated version on record.

iii The reply received from Deputy Registrar of Co-operative Societies clearly stated that the Administrative Committee was empowered to take decisions in the interest of the Society, subject to the control and instructions of the Deputy Registrar. Further, the Administrative Committee was headed by an officer deputed from the office of the Deputy Registrar itself, being a Government Officer working under the Deputy Registrar of Co-operative Societies. In such circumstances, the Respondent had no reason to believe that the appointment made by the Administrative Committee had not been informed to the Deputy Registrar of Co-operative Societies.

iv The Respondent further submitted that there was no reason or occasion for the Respondent to verify whether the appointment was required to be made by the General Body of Members. Accordingly, there was no negligence whatsoever on the part of the Respondent in relation to the appointment in question.

5.3 The Respondent, vide letter dated 04th June 2024, submitted an affidavit dated 22nd March 2024 of CA Vinay Ramchandra Ganoo, a member of the Administrative Committee.

6. Rejoinder filed by the Complainant after Prima Facie Opinion:-

6.1. The Complainant vide his letter dated 29th February 2024, 26th April 2024 and 07th June 2024, while reiterating his earlier submissions, inter-alia, made the submissions which are given as under: -

i. That the Respondent and CA Shreedhar Pathak were appointed as the Internal Auditors of the Society, and such appointment was displayed on the notice board of the Society.

ii. If the appointment was for fact-finding, then why do the resolution as well as the appointment letter mention the appointment of Internal Auditors? Furthermore, the reports submitted by the Respondent referred to them as Internal Audit Reports.

iii. The affidavit submitted by the Respondent is merely a continuation of the earlier replies and appears to be an afterthought intended to cover up the entire matter.

7. Brief facts of the Proceedings:

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

S. No	Date of meeting(s)	Status
1	14th June 2024	Oath taken by parties to the case and adjourned.
2	27th March 2026	Adjourned at the request of Respondent.
3	14th May 2026	Hearing concluded and Findings reserved.
4	25th July 2026	Decision taken

7.2. On the day of first hearing held on 14th June 2024, the Committee noted that the Respondent along with his Counsel and the Complainant was present before it through video conferencing. Thereafter, the Respondent and Complainant were administered 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.

7.3. On the day of hearing on 27th March 2026, the Committee noted that the Respondent vide email dated 21st March 2026 sought an adjournment and requested time of 3 weeks for preparation of matter. The Committee observed that the request for adjournment of the hearing had been received for the first time in the present case. Accordingly, in keeping with the principles of natural justice, the Committee acceded to the Respondent's request for adjournment, while stipulating that no further request for adjournment would be entertained. Accordingly, the hearing in the case was adjourned at the request of the Respondent.

7.4. On the day of hearing on 14th May 2026, the Committee noted that the Respondent along with Counsel and the Complainant were present through VC and appeared before it. Thereafter, the Committee noted that the case was part heard and the Respondent and the Complainant were already on oath. The Committee enquired from the Respondent that since the composition of the Committee had changed subsequent to the last hearing held on 14.06.2024 in this case, whether he wished to have a de-novo hearing by taking all submissions/representations already on record or may continue from the stage it was last heard. The Respondent submitted that the proceedings in the instant matter(s) be continued from the stage these were last heard.

The Committee noted that the allegation against the Respondent was that the appointment of internal auditors was not in accordance with the society's bylaws, specifically clause 141(d), which requires such appointments to be made in the Annual General Meeting. The Complainant argued that the appointment was made by the Administrative Committee without proper authority, and that the use of the term "internal auditor" and the display of CA qualifications in notices and reports indicate the nature of the assignment as internal audit. The Respondent submitted that as per clause 141(d), internal auditor is for the purpose of audit of the accounts, and they have not done the audit at all.

In response, the Counsel for Respondent contended that the assignment given to the CAs was not an internal audit of the society's accounts, but rather a fact-finding exercise regarding specific issues within the society. He highlighted that the Reports did not involve examination of accounts, vouchers, or financial records, and that the appointment was made due to the professional standing of the individuals rather than for statutory audit purposes. The Respondents also relied upon the Affidavits and clarifications from the Administrator and a senior CA involved, asserting that the intention was never to conduct an internal audit as defined by the bylaws. The Committee noted the submissions of both the parties.

7.5. Based on the documents and material available on record and after considering the oral and written submissions made by both the parties, the Committee concluded the hearing in the matter and findings was reserved.

7.6. At the meeting held on 25th July 2026, the Committee noted that the subject case was heard by it at length in the presence of the Complainant and the Respondent and the hearing was concluded at its meeting held on 14th May 2026 and the Findings was reserved. The Committee considered the material on record including submissions of the parties. The Committee deliberated in detail on the said case and took decision on the conduct of the Respondent.

8. <u>Findings of the Committee: -</u>

The Committee noted the background of the case as well as oral and written submissions made by the Respondent, documents/ material on record and gives its findings as under: -

8.1. The Committee noted that there is one charge against the Respondent that as per notice dated 23.02.2018 which was put up on notice board of the Society, the

Respondent along with CA. Shreedhar Narayan Pathak were appointed as Internal Auditor of the Society, in their professional capacity, in violation of clause 141(d) of Bye-laws of the Co-operative housing Society.

8.2. The Committee noted that the Complainant had placed considerable reliance upon the terminology used in the following documents, wherein the Respondent was described as "Honorary Internal Auditor". According to the Complainant, the use of such expression itself established that the Respondent had accepted appointment as 'Internal Auditor' contrary to the Bye-laws of the Society:

(a) Copy of resolution passed by the Administrative Committee in its meeting held on 20.02.2018 regarding appointment of internal auditors.

(b) Appointment letter of internal auditors dated 23.02.2018.

(c) Internal audit report issued by the Respondent and CA. Shreedhar Pathak.

8.3. In this regard, the Committee perused the relevant contents of the notice dated 23.02.2018 which read as under: -

" *IMPORTANT NOTICE*

The Administrative Committee has made the following appointments in the meeting of the Administrative Committee held on 20.02.2018

INTENRAL AUDITORS

1. CA. Mr. Shreedhar Pathak

2. CA. Mr. Anil Phadke"

8.4. The Committee further noted the resolution passed by the Administrative Committee in its meeting held on 20.02.2018 regarding appointment of internal auditor which is as under:-

"…..

Resolution No.02 –

Resolved that for the financial year 2017-18, members of the Society, Mr. Shreedhar Pathak CA and Mr. Anil Phadke CA are appointed as Honorary Internal Auditor of the Society."

{Note: From the submission of Respondent, it was observed that Respondent has signed the Written statement in name of 'CA Vinayak (alias Anil) Phadke'. From the same, it appears that the Respondent is also known as Anil Phadke}

8.5. The Committee further noted the contents of the appointment letter dated 23.02.2018 issued to the Respondent which read as under:-

"We are happy to inform you that, in the Administrative Committee meeting that took place on 20.02.2018 of, as per Resolution No.2, you have been appointed as Honorary Internal Auditor for doing internal Audit of our Society for the 2017-18. Please send us your acceptance letter and start the work immediately."

8.6. It is noted that that the Registrar of the Societies is empowered to appoint the Administrative Committee where the existing Managing Committee of a Society failed to elect new member or where new committee could not be constituted before expiry of the term of existing committee. The said fact was also established from the letter dated 12.04.2018 of Deputy Registrar of Co-operative Society, Pune wherein he mentioned that Board of Directors/Managing Committee of the Society was dismissed due to lack of quorum and vide Order dated 05.02.2018, an Administrative Committee was appointed to look after the work of the Society. It was also mentioned in the said letter that instruction has been given to the Administrative Committee regarding the election of the Board of Directors/Managing Committee of the Society.

8.7. In this regard, the Committee noted the submissions made by the Respondent that he had not been appointed as the Internal Auditor of the Society. According to the Respondent, the term "Internal Audit" had been used by the Administrative Committee; however, the same did not correspond to the actual meaning and scope of the term "Internal Auditor" as envisaged under the Maharashtra Co-operative Societies (MCS) Act, Rules, and Byelaws. He further stated that the appointment was made primarily because they had been members of the Society for a long period and were well acquainted with the bye-laws of the Society. The Respondent had furnished three separate reports on 19.03.2018, 21.03.2018 and 20.04.2018, respectively, pertaining to the following three issues:

a) Regarding revised Quotation received from M/s. Track-On Alternative Solutions dated 21.02.2018.

b) Regarding application made by Mr. Ashok Jadhav dated 20th January 2018 to restore his salary and working hours; and

c) Regarding validity of the purportedly held managing committee meeting on 19th November, 2017.

8.8. The Committee further noted that, in support of the aforesaid submissions, the Respondent had placed on record the following clarification/ affidavit: -

(a) Clarification letter issued by the Administrative Committee/Officer of the Department of Co-operation, Government of Maharashtra to the Respondent stating as under:-

"*In this regard, it is being informed to you that the Administrative Committee of Nav Ajantha Cooperative Housing Society Ltd. had made a resolution regarding your appointment as the internal auditor under resolution number 2 dated 20/02/2018. However, the said appointment was not made for any internal audit of the Society was made for submitting a report in accordance with three matters.*"

(b) Affidavit of CA Vinay Ganoo, one of the members of the Administrative Committee dated 22nd March 2024 stating as under: -

"In the meeting of the Administrative Committee held on 20th February 2018, Mr. Shreedhar Pathak and Mr. Vinayak Phadke were appointed to check the facts of the above issues in the capacity of members of the Society. The title of the resolution itself says so.

Although the words "internal auditors" have been used in the resolution, notice etc., in true sense this was a fact-finding exercise for the specific issues mentioned above and further if it was the appointment as internal auditor, we would have asked internal audit report on the accounts of the society and certification thereof, which we did not ask from them any time. So it was not internal audit of accounts of the Society as envisaged by Maharashtra Co-operative Societies Act 1960, Maharashtra Co-operative Societies Rules 1961 and Bye Laws of the Society especially clause 141(d).

Since as Administrative Committee we felt the need to do fact finding of the issues mentioned above, no external person / agency was appointed, and the exercise was of internal nature only and hence we requested help from Mr. Shreedhar Pathak and Mr. Vinayak Phadke as members of the society"

8.9. The Committee observed that the Respondent has also placed reliance on Point No. 8 of the Statutory Audit Report of the Society for the financial year 2017–18, wherein the statutory auditor of the Society made the following observations, which is reproduced hereinbelow:

8. Internal or Local Audit

(i) Whether any internal or local audit system exists; if so, specify the authority conducting such audit, the period covered, and whether the audit memorandum forms part of the Society's records.

Answer: No such system exists.

(ii) Whether adequate coordination exists between the statutory auditor and the internal auditor.

Answer: Not applicable.

8.10. The Committee noted the plea of the Respondent that the statutory auditor of the Society, in his audit report for the financial year 2017–18, had categorically stated that no internal audit system existed in the Society. According to the respondent, said observation clearly indicated that the Society had never appointed the Respondent as its internal auditor. Furthermore, the said comment of the statutory auditor was not objected by the Society.

8.11. On overall consideration, the Committee noted that the main issue related to the allegation against the Respondent is that he accepted and acted as an "Internal Auditor" of the Society without the appointment having been made in accordance with the procedure prescribed under bye-law 141(d). The Committee, however, felt that the determination of professional misconduct cannot rest solely upon the terminology employed in correspondence, resolutions, or communications. What is required to be examined is the true nature, substance, and scope of the assignment actually undertaken by the Respondent.

8.12. Upon examination of the material on record, the Committee observed that the work entrusted to the Respondent was essentially in the nature of a fact-finding exercise intended to address certain specific issues concerning the functioning of the Society. The evidence does not demonstrate that the Respondent undertook any examination of books of account, accounting records, vouchers, supporting documents, bank statements, financial transactions, or any other financial information ordinarily associated with an internal audit engagement. The Committee viewed that nor is there any material to establish that the Respondent expressed an audit opinion or performed procedures that could reasonably be construed as an audit of accounts within the meaning of the applicable bye-laws.

8.13. The Committee further noted that the reports prepared by the Respondent were not issued on his professional letterhead, were not signed in the capacity of a practicing Chartered Accountant, and did not purport to be professional audit reports. The Respondent's conduct throughout the assignment is consistent with his contention that he acted as a member of the fact-finding committee and not as a professional auditor engaged to conduct an internal audit of the Society's accounts.

8.14. The Committee also noted the clarification issued by the then Administrator of the Society as well as the supporting affidavit of CA Vinay Ganoo, one of the members of the Administrative Committee placed on record, both of which indicate that the assignment was intended to address administrative concerns and was not conceived as an internal audit of the Society's financial affairs. While the Complainant has questioned the evidentiary value of such clarification, the Committee finds that the same is consistent with the actual scope of work reflected from the documents and reports available on record.

8.15. The Committee is of the view that disciplinary liability cannot be founded merely on the description or nomenclature assigned to an engagement when the substantive work performed is demonstrably different from the professional service alleged. The real character of the engagement and the actual conduct of the member is required to be examined, rather than the terminology employed for the engagement. In the present case, the evidence indicates that no internal audit engagement, as understood under the relevant by-laws, was performed by the Respondent.

8.16. In this regard, the Committee further noted the provisions of Rule 141 of the Bye-laws of the Society which reads as under:-

"141 Appointment of Auditor.

(a) The Society shall appoint the Statutory Auditor in its General Body Meeting from the panel of Auditors approved by Slate Govt and same Statutory Auditor shall not be appointed for more than two consecutive years. The Statutory Auditor shall submit his Audit Report as provided in section 81 of the Act.

(b) It shall be the responsibility of the Committee to get the Accounts Audited within a period of six months from the closure of financial year and in any case before issuance of Notice of the holding of the Annual General Body Meeting.

(c) The Remuneration of Auditors so appointed shall be decided by the General Body Meeting of the Society.

(d) The Society may, if it considers it necessary, appoint an internal Auditor, to audit the accounts of the Society, at the Annual General Body Meeting." (Emphasis added)

8.17. The Committee noted that, it has been observed in the Prima Facie Opinion that the appointment of the Internal Auditor was required to be made in the Annual General Body Meeting, and accordingly, it was concluded that the Respondent was responsible for ensuring compliance with the relevant Bye-laws of the Society concerning such appointment. In this regard, the Committee observed that the appointment of the two members for carrying out the fact-finding exercise had been made by the Administrative Committee of the Society and having reached the conclusion that the nature of the assignment is not related to internal audit, the applicability of clause of bye-law of society is not attracted in the circumstances as discussed above. In view of the same, the Committee observed that the responsibility of compliance of Clause 141(d) of the Bye-laws of the Society does not vest with the Respondent.

8.18. The Committee further noted the submissions of the Respondent that he did not carry out the work in the course of his professional duties or practice, but solely as an honorary member of the Society; and therefore, Item No. 7 of Part I of the Second Schedule is not applicable in the instant case.

8.19. The Committee, considering the above submissions of the Respondent and facts of the case, observed that the charge of the Complainant is confined to the issue relating to the appointment as the internal auditor of the Society which is a procedural irregularity. The Committee further noted that there was no material available on record to establish that the Respondent had failed to exercise due diligence in the discharge of professional duties and responsibilities. Accordingly, the Committee decided to drop the Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

8.20. The Committee also noted that even assuming there existed procedural irregularities in the manner in which the Society's Administrative Committee constituted the fact-finding committee, such irregularities, by themselves, do not establish professional misconduct on the part of the Respondent in the absence of evidence demonstrating that he knowingly accepted a prohibited professional engagement or acted in violation of the provisions of the Chartered Accountants Act, 1949 or the Code of Ethics.

8.21. Accordingly, the Committee finds that the allegations levelled against the Respondent have not been substantiated by cogent evidence. The essential ingredients necessary to establish professional misconduct are absent in the present case. In view of the foregoing facts, documents and reasons, the Committee holds that the charge of professional misconduct against the Respondent is not proved. Accordingly, the Committee held the Respondent **'NOT GUILTY'** of Professional Misconduct falling under the meaning of Clause (7) of Part I of the Second Schedule of the Chartered Accountants Act, 1949

9. <u>Conclusion:</u>

9.1 In view of the findings stated in above paras, vis-a-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 above	Para 8.1 to 8.21 as above.	**NOT GUILTY** **Dropped** - Clause (7) of Part I of the Second Schedule.

10. In view of the above observations, considering the material on record including verbal and written submissions of the Parties, the Committee held the Respondent **NOT GUILTY** of Professional Misconduct falling within the meaning of Clause (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.

11. ORDER

Accordingly, in terms of Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee passes an Order for closure of this case against the Respondent.

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

Sd/-
(CMA CHANDRA WADHWA)
GOVERNMENT NOMINEE

Sd/-
(CA. MAHESH SHAH)
GOVERNMENT NOMINEE

Sd/-
(CA. SATISH KUMAR GUPTA)
MEMBER

DATE: 29.08.2026

PLACE: Noida

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
The Institute of Chartered Accountants of India
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ICAI Bhawan, C-1, Sector-1, Noida-201301 (U.P.)