Article

Addressing Professional Misconduct of the Indian Chartered Accountants

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Abstract

On February 8, 2024, the Supreme Court (SC) upheld Rule 9(3)(b) under the Chartered Accountants' (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. This Rule empowers the Institute of Chartered Accountants of India (ICAI)'s Disciplinary Committee to re-investigate any professional misconduct complaint against any ICAI member (chartered accountant, in short, CA). The Rule indicates that the Board of Discipline can refer the complaint to the Disciplinary Committee despite the Director (Discipline) absolving the errant member of the alleged professional misconduct complaints. Affirming the Delhi High Court's ruling by dismissing the appellant CA's appeal, the SC upheld section 21A(4) of the Chartered Accountants (Amendment) Act, 2006, and observed that impugned Rule 9(3)(b) is not ultra vires of Section 21A(4). The SC further observed that the intent of the said Rule conforms to the very object and purpose of the *Chapter on* "*Misconduct*" under the Act of 2006. Against that backdrop, the present study motivates by revisiting the Rule's scope to assess whether it could minimize the CAs' professional misconduct.

Keywords

Chartered accountant, professional misconduct, Disciplinary Committee, Supreme Court

Introduction

The Institute of Chartered Accountants of India (ICAI), the Indian accountancy profession self-regulator, is committed to improving accounting and audit quality (AQ), but corporate India is not uncommonly exposed to accounting scams. The

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Chartered Accountants Act of 1949, as amended in 2022 to fortify the accountability of practicing chartered accountants (CAs) and CA firms, has yet to be notified. However, the ICAI data suggest 368 pending cases of professional misconduct in front of disciplinary bodies. Since its inception in 2007, the disciplinary mechanism has inquired into around 2,650 cases with prima facie evidence of violations of professional conduct reported against the erring CAs and CA firms. Data further revealed that in 2,284 cases, CAs were either found guilty or absolved post-hearing. Admittedly, 1,080 errant CAs were found guilty of professional misconduct during the last 17 years, indicating a culpability rate exceeding 40% (Kaushik, 2024). ICAI deals with disciplinary matters in three ways. The Director (Discipline) prima facie investigates the complaint and refers it to the second arm, the Board of Discipline. Compliant with the First Schedule of the CA Act of 1949, the Board investigates the allegations of breach of professional conduct of the errant CAs and CA firms and consequently concludes about professional misconduct. On the other hand, the Disciplinary Committee (DC) deals with violation cases falling under the second or both Schedules of the Act. The DC could impose a maximum penalty of a life term ban from practice and a ₹5 lakh penalty on erring CAs for their gross professional misconduct. The Board of Discipline monitors the professional conduct of ICAI members under Section 21A of the Act. Under Section 21A(1)(c) of the Act, the Director (Discipline) discharges the Board's secretarial functions. Section 21A(2) empowers the Board to comply with a summary procedure in addressing the referred complaints. The Board could impose any of the three punishments vide Section 21A(3) of the First Schedule against the errant members for their proven professional or other misconduct.

The Director (Discipline) is required to submit all information in their access and complaints to the Board, where they believe there is no prima facie case in the complaint, compliant with provisions of Section 21A(4). It further provides that if the Board agrees with the Director (Discipline)'s opinion, it may close the matter, and if it disagrees with the opinion, it may advise the Director (Discipline) to investigate the complaint further. Section 21B(1) to (4) contains a similar scheme to deal with complaints relating to misconduct as prescribed in the Second Schedule of the Act of 1949. Section 29A of the Act is titled "Power of Central Government to Make Rules." Section 29A(1) enables the central government "to make rules to carry out the provisions of this Act." Section 29A(2) sets out the heads for framing rules. Rule 9(3), which is part of Rules 2007, appears to have been made under Section 29A(2)(c). Notably, the power to make rules under Subsection (2) of Section 29A is "without prejudice to the generality of the foregoing power" provided for in Section 29A(1). Rule 9, entitled "Examination of Complaint," and Subclause (1) deal with the procedures for addressing the complaints. The Director (Discipline) followed the procedures stipulated in Subclause (2) after being prima facie convinced about the alleged misconduct of the CA. Subclauses (3) to (9) stipulate compliance with the procedures referred to in Subclause (2) of Rule 9. Subclause (3) provides that the Board could close the complaint vide Rule 9(3)(a) by affirming the opinion of the Director (Discipline). If the Board disagrees with the Director (Discipline)'s prima facie opinion, it could proceed with Chapter IV of the Rules, 2007, if the matter pertains to the

First Schedule, or it may advise the Director to investigate the matter further. Similarly, the Board could refer the matter to the DC for action under Chapter V if it pertains to the Second Schedule or advise the Director (Discipline) to conduct further investigation.

The Act of 1949 governs the Indian accountancy profession. The Chapter on "Misconduct" in the Act is crucial in maintaining the profession's ethical standards, setting ethical guidelines, preventing actions that may compromise public interests, ensuring accountability among CAs, and preserving the profession's reputation. The chapter's scope encompasses upholding honesty and integrity and preventing professional misconduct by practicing CAs. It sets a framework for accountability, reinforces the credibility of the CAs, and is committed to maintaining the profession's reputation. The Act includes a disciplinary mechanism to achieve these goals, ensuring a fair and transparent process for investigating and adjudicating alleged misconduct cases. The power exercised by the Council of the ICAI under Section 21 is quasi-judicial, and the Supreme Court (SC) (*Institute of Chartered Accountants of India v. L. K. Ratna*, 1986) considered the duties of the Council. Moreover, the SC ruled that the DC is a fact-finding body subordinate to the Council as a fact-finding authority (*Institute of Chartered Accountants of India v. Price Waterhouse*, 1997). Upholding Rule 9(3)(b) of the Rules, 2007, which is not in ultra vires Section 21A(4) of the Act, the SC (*Naresh Chandra Agrawal v. Institute of Chartered Accountants of India*, 2024) observed that the Director (Discipline), who functions as a secretary to the Board of Discipline compliant with Section 21A(2), will have more extraordinary powers than the Board itself. The Director's "prima facie" opinion will become nothing but a final opinion if the Board cannot direct the Director (Discipline) to investigate the matter further. The Apex Court judgment will likely open a new vista for regulating erring CAs, and the accounting profession could achieve new heights. Eliminating accounting misconduct from corporate India is a herculean task. However, proactive steps initiated in the past few years by the National Financial Reporting Authority of India (NFRA), the regulator of the auditing profession, could bring significant improvements in the accounting and auditing profession. Apart from the steps initiated by the ICAI that were compliant with the disciplinary mechanism for accounting failures, NFRA initiates steps for audit failures, such as not complying with standards on auditing (SA). Against the backdrop of this SC judgment, the present study assesses the entire gamut of addressing accounting misconduct perpetrated by the CA and CA firms.

Theoretical Issues

Fraud, scams, corruption, and audit failure significantly impact accounting actors. Accounting literature indicates that the "Big Four" accountancy firms render services to manage corporate fraud risk and corruption (Slager, 2017). Accounting academics exclusively addressed the role of auditors in fraud and corruption prevention (Paterson et al., 2019), but debate remains. Theoretically, the auditor's primary role is to ensure the "true and fairness" of the audited financial statement

(FS) and the auditee's going concern ability based on historical information (Humphrey et al., 2021). However, the auditing literature also documents controversy (D'Andreamatteo et al., 2024). The auditor's role in fraud prevention is unlikely; we expect the audit expectations gap (AEG) or disconnect between "what the public believes auditors' responsibilities to be and what auditors believe their responsibilities are" (Hassink et al., 2009). The *AEG theory* suggests that users of the FSs expect auditors to provide assurances about material fraud, irregularities, and going concern propositions. However, auditors provide "reasonable assurance" regarding the FSs and whether they are free from material misstatements (MMs). As auditors presume themselves to be protective shields of auditees (Roussy, 2013), the general public and management are concerned about the definition of corruption and fraud. Although the accounting-based definitions of those terms are self-explanatory, they suffer from many inherent limitations (Paterson et al., 2019), which could trigger the present AEG (Humphrey et al., 2021). Moreover, the accounting literature reports apprehensions regarding meeting the accountancy profession's societal norms and objectives, as strict legal compliance with rule-based standards could impede those objectives (Everett et al., 2018).

There is growing interest in the auditing literature, which sheds light on different insights into the auditor's role in corruption and fraud prevention. First, the auditor no longer acts as a "watchdog" but instead acts as a trusted advisor and management team member (Dermarkar & Hazgui, 2022). However, this raises a severe concern about audit independence (AI) and AQ. Second, the audit practice is unstable and changes its meaning (Sikka et al., 1998). In recent times, auditors have assumed themselves as trusted management advisors but could somersault the earlier stand of "watchdog" for maintaining AI and improving AQ. Third, the nature of audits significantly changes over time (Brown, 2020). However, despite the remarkable change in ambiguous objectives, scope, and consequences (Bottausci & Robson, 2023), audit enjoys a constitutive power, which could change the shape of the accounting field and make those auditable (Power, 1997). Consequently, the audit objective focuses on fraud and corruption prevention rather than fraud detection (Reichborn-Kjennerud et al., 2019). Fourth, a reasonable AEG exists between the auditor and auditee regarding fraud prevention and detection (Porter, 1993). The AEG increases in fraud prevention and detection as nonaudit people expect fraud detection to be an audit objective, which sharply differs from the auditor's objective (Hassink et al., 2009). Finally, the audit profession, in two ways, responds to the AEG: first, in a defensive manner, that is, by better educating the public about their expectations on audit; and second, in a constructive manner, that is, through regulatory changes and conducting extensive audit works and expanding reporting and communication significantly (Deepal & Jayamaha, 2022).

Related theories also address the role of auditors in fraud and corruption prevention. The *policeman theory* posits that auditors are entrusted with the responsibility of detecting and preventing fraud. Auditee typically hires audit service at the least cost, and changes in audit fees lead to auditor turnover (DeFond, 1992). The literature reports that audit delays foment auditor resignations (Mande & Son, 2011) and higher audit fees likely signal to financiers about higher AQ of the FS

(Alrashidi et al., 2021). The *credibility theory* indicates that auditors significantly improve the credibility of the audited FS and firms' decisions. A stock market positive response indicates those developments, while a negative response indicates an auditor's resignation (Choi et al., 2019). The *theory of normal organizational wrongdoing* (Palmer & Maher, 2006) suggests that organizational corruption and misdeeds are common phenomena unlikely to be motivated from social contexts. The *economic theory* (Klein & Leffler, 1981) posits that auditors urge improvement in AQ due to the threat of reputation loss in accounting scams and audit failures. The *agency theory* posits that stringent internal and ownership monitoring could mitigate accounting fraud (Jensen & Meckling, 1976). Asymmetric information leads to acute conflict between managers and owners. However, it is manageable through robust corporate governance (CG) mechanisms. The research concludes that a robust CG mechanism will likely prevent corporate fraud (Deb, 2021). *The skeptical trait theory* is one way to understand and assess auditors' fraud planning judgments (Quadackers *et al*., 2014); however, little research exists.

Professional Misconduct and Audit Failures

An entity's stakeholders, including minority investors, expect the highest professional and ethical conduct from the practicing CAs appointed as statutory auditors. However, in many instances, the stakeholders are debased as the statutory auditors miserably fail to discharge their professional duties, leading to fraudulent financial reporting and, eventually, audit failures. Corporate India consistently witnesses those exposed scams and fiascos across industries. Theoretically, the audit serves a dual role, that is, deterrence (anti-fraud fabric) and detection. The fraud perpetrators assess the robustness of the audit in detecting the fraud, as an effective audit could detect the fraud. Admittedly, detecting and preventing fraud and errors is the secondary objective of the audit, as indicated in SA 240 (Revised). However, fraud detection becomes the auditor's primary role when FSs indicate materially misstated.

Critical analysis of multiple audit failures suggests that the errant auditors mostly failed to apply professional skepticism (PS), that is, a questioning mind and attitude, in critically judging the audit evidence before concluding. Although auditors significantly rely on analytical procedures (APs) in assessing risk and detailed substantive tests to detect fraud and misstatements, audit failures indicate a lack of appropriate applications of APs. It consequently catalyzes decorating AQ, that is, the auditors' probability of discovering and reporting any breach in the auditee's accounting system. Moreover, the poor AQ further leads to the expansion of the AEG. As the audit combines science (application of SA) and art (the auditors' ability to smell the red flag but not like a bloodhound), the audit profession's stakeholders expect the highest standard of PS from the auditors. Moreover, in detecting frauds and materially misstated FSs, the auditors will likely apply AP rigorously. Unfortunately, audit failures vividly indicate auditors' professional misconduct and lack of PS and AP in audit assignments.

The infamous instances of CAs' professional misconduct and resultant financial shenanigans and audit failures are not uncommon and new in corporate India. The exposure of the Satyam Computer scam in 2009, tuning to ₹8,373 crore, indicates the application of aggressive accounting techniques such as exaggerating revenues, understating liabilities, bogus and inflated profits, and overstating assets by its promoter, Mr. Ramalinga Raju, who was hand in glove with the key managerial personnel (KMP). Price Waterhouse (PwC) India, the Indian audit partner firm of PwC, a so-called "Big 4" audit firm, failed to detect and prevent the audit failure. The lengthy investigation indicates not only CG failures but also audit failures and errant auditors found guilty of professional misconduct. The exposure of scams did not rest in peace. Instead, they were perpetual. The IL&FS scandal's exposure in 2018 pointed out a significant audit failure of another "Big 4" audit firm, Deloitte, as it failed to detect and prevent the auditee's debt obligation defaults and liquidity crunch. The Serious Fraud Investigation Office (SFIO), an investigating wing, concluded that the auditors and credit rating agencies significantly contributed to the IL&FS failure.

The scams were unlikely confined to the nonfinancial sector; they stuck to the financial sector, as evidenced by the biggest-ever banking fraud exposed in 2018, perpetrated by Nirav Modi and his uncle Mehul Choksi in connivance with a few corrupt officials of the Punjab National Bank (PNB), Brady House branch of Mumbai, tuning to around ₹13,000 crores. Although prima facie, the investigation reports an ill nexus between the perpetrators and bank officials, it predominantly occurred due to the internal control system's collapse and the internal audit's failure, the third line of defense. However, the statutory auditor also failed to thoroughly understand the client's business models and related risks, which could have led to a debacle. Consequently, eight auditors face ICAI's disciplinary proceedings for their alleged professional misconduct. An audit failure by an affiliate of another "Big 4" audit firm, KPMG network affiliate BSR & Co., was exposed, indicating the alleged diversion of ₹3,535 crore from seven subsidiary companies of Coffee Day Enterprises to Mysore Amalgamated Coffee Estate (MACEL) in 2019. NFRA subsequently, in 2024, imposed a hefty penalty and debarment from practice on two errant statutory auditors for their professional misconduct.

The Indian financial system was again jolted by the shocking news of putting YES Bank, the fourth largest Indian private bank, under a moratorium on March 5, 2020, by the central government. Investigation revealed that the former CEO, Mr. Rana Kapoor, allegedly extended loans in *quid pro quo* nonarrangement to the companies confronting financial turmoil (Deb, 2021). The statutory auditors and AC failed to detect, which led to the fiasco. The bank's statutory auditor is BSR & Co. LLP Chartered Accountants, an affiliate of KPMG, one of the so-called "Big 4" audit firms, who are facing an investigation for their failure in detecting and preventing misdeeds. Moreover, the auditor's opinions on the status of the bank's going concern since 2017–2018 are also under the scanner.

In mid-June 2025, NFRA sought files since 2017 and served notices to the past and current auditors of IndusInd Bank Ltd. (IBL), a private bank, concerning alleged *derivatives irregularities*. The suspected accounting manipulation was allegedly perpetrated by senior bank officials, either by overstating the bank's bottom line or suppressing losses, aligning with exchange rate movements. The statutory auditors' role is under scanner, and the probabilities of grave professional misconduct are unlikely to be refuted. The current auditor, MSKA & Associates, a member of the global advisory network BDO, and past auditors' roles are under NFRA's scanner for the exposed irregularities. The audit files could also include the Memorandum of Changes (MoCs), vital documents used to record and communicate material changes or misstatements found in FSs. NFRA will likely investigate whether auditors applied PS to the bank's other assets, predominantly used for internally hedging transactions concerning derivative price manipulations (Ghosh, 2025).

Disciplinary Mechanism and Judicial Intervention

The Act of 1949 and the Regulations framed thereunder constitute a holistic code guiding the handling of CAs' misconduct. The Council of ICAI frames the Regulations under the powers conferred under Section 30 of the Act. Section 9 empowers the Council to manage ICAI's affairs and discharge functions delegated to it in compliance with the Act of 1949. Section 15(2)(1) confers powers on the Council to take disciplinary actions against the CAs. Section 22 defines professional misconduct, and Section 21 deals with procedures for professional or other misconduct. Section 21 covers the required procedures while investigating all classes of misconduct, be it professional or otherwise. Section 21 of the Act incorporates different functionaries, viz., DC, the Council, and, in some instances, the High Court (HC). However, the Council acts as the governing body of ICAI. After acknowledging the alleged complaint of CA's misconduct and considering the prima facie observation of the Director (Discipline), if it finds substance, it refers the complaint to the DC. The DC becomes quasi-judicial, plays a subordinate role, and, after the inquiry, submits a report to the Council, the governing body. Notably, the DC, as a committee of ICAI, enjoys a specific function within the scope of the Act. The report contains a statement of the allegations, a defense of the CA, a record of the evidence, and conclusions drawn based on that material. Conclusion refers to DC's conclusion instead of findings, as DC has no locus under the Act to render findings. Sections 21(2) and (3) empower the Council to decide whether the CA is guilty of misconduct. Complaint to Section 21(2), the Council, based on DC's report, if it finds the CA is not guilty of misconduct, could record the finding and direct for dismissing the complaint. On the other hand, as per Section 21(3), if the Council finds the CA is guilty of misconduct, it records the findings of the DC and proceeds as stipulated in subsequent subsections. Again, under Regulation 12(11)(i), the Council is unlikely to record its opinion supported by reasons. The Council's recorded opinion could differ from a reasoned decision as understandable in administrative law. However, if the Council's opinion is challenged, it is bound to disclose the reasons supporting it to the Court for review.

Judicial intervention in the DC's findings against erring CAs indicates mixed outcomes. In one such case, the SC observed that the Council failed to provide independent findings, and independent reasons did not support its recommendations, leading to quashing and canceling the imposed punishment (*D. K. Agrawal v. Council of Institute of Chartered Accountants of India*, 2021). Notably, the SC ruled that when the Council concludes a breach of professional misconduct by any errant member, the Council, under the Act, should refer the matter to the HC with a recommendation for the latter's adjudication. The HC can pass a final order dismissing the complaint or penalizing the errant CA. The aggrieved member can also appeal before the HC to assail the Council's order to impose a penalty. In the circumstances, the recommendation/order of the Council must contain reasons for the conclusion. The Delhi HC, while upholding the Council's power under the existing Act and Rules, observes that ICAI can take action against firms or individual CAs—if a CA cannot be held responsible, ICAI can proceed against the firm as a whole. The HC further observes the need to strengthen disciplinary mechanisms against CA firms and implement the Amendment Act of 2022 as soon as possible (*Harinderjit Singh v. Disciplinary Committee Bench-III, Institute of Chartered Accountants of India*, 2024). The ICAI before the Delhi HC relied on the SC judgment (*S. Sukumar v. Secretary, Institute of Chartered Accountants of India*, 2018), which held that the PwC group of firms had violated the provisions of the Act. However, earlier, the SC upheld the findings of the HC, which dismissed the DC's recommendation against a CA for his alleged professional misconduct and reprimanded him on the ground of lapses in the DC's findings (*Institute of Chartered Accountants of India v. M. S. Rathi*, 2017). The SC also held that the Council is competent to hold an inquiry only where the Council is satisfied prima facie that the facts alleged against the CA, if proved, would justify the exercise of disciplinary jurisdiction against him. The ratio of this judgment is that if the allegation leveled against the CA, if proven, would amount to misconduct on his part, then the Council undoubtedly has legal competence to initiate disciplinary action (*Institute of Chartered Accountants v. P. K. Mukheerjea*, 1957). The same ratio was followed in subsequent judgments by different HCs (*C. Krishna Babu v. Institute of Chartered Accountants of India*, 2000).

Scrutiny of SC and different HC judgments indicates inconsistent definitions of professional negligence regarding auditors' liability (Ram Mohan & Raj, 2020). An auditor's professional negligence without mens rea (criminal intention or evil mind) would be gross negligence (*Institute of Chartered Accountants of India v. Mukesh Gang*, 2016), sharply contrasting the SC ruling about medical and legal professions (*Dr. Suresh Gupta v. NCT of Delhi*, 2004; *Jacob Mathew v. State of Punjab*, 2006; *T. A. Kathiru v. Jacob Mathai*, 2017). The terms "negligence" and "gross negligence" significantly differ in the medical and legal professions; however, for the audit profession, no such difference is indicated by the Apex Court. The SC ruled that the presence of moral turpitude (anything done opposed to justice, honesty, and good morals) and professional negligence was necessary to punish the errant professionals (*Jacob Mathew v. State of Punjab*, 2006; *Sushil Kumar Singhal v. Regional Manager, Punjab National Bank*, 2010; *T. A. Kathiru v. Jacob Mathai*, 2017). The Bombay HC stepped in to settle the conflict between the overlapping power of the capital market regulator, the Securities and Exchange Board of India (SEBI), and ICAI in debarment of an auditor from practice and affirmed the latter as the authority of issuance for such debarment (*Price Waterhouse v. SEBI*, 2010). The Calcutta HC ruled that there must be mens rea in the auditor's modus operandi and inefficiency to hold him liable for gross negligence (*Institute of Chartered Accountants of India v. Somnath Basu*, 2006). Per contra, Madras HC observed that an auditor is grossly negligent if he admits to dependence on management, even without the presence of mens rea (*Registrar of Companies v. P. Arunajatai*, 1963; *Superintendent of Police v. R. Rajamany*, 1961). Following the Madras HC ruling, the Himachal Pradesh HC reduced the punishment for errant auditors found to be grossly negligent (*Punjab State Government v. K. N. Chandla*, 1972). Affirming the Bombay HC order, the SC stayed the National Company Law Tribunal (NCLT)'s order, debarring IL&FS auditors from practice for 5 years, as the auditor had already stepped down on the date of passing that impugned order (*Union of India v. Deloitte Haskins and Sells LLP*, 2023). However, the SC held that the subsequent resignation of an auditor does not lead to the quashing of proceedings under Section 140(5) of the Companies Act of 2013 and that Subsection (5) neither volatiles Articles 14 nor 19(1) of the Indian Constitution. Again, the Calcutta HC reprimanded an auditor who was held guilty of negligence due to a lack of turpitude (*S. Ganesan v. A. K. Joscelyne*, 1957). Interestingly, in another case, the same HC debarred an errant auditor from practice for 2 years (*Deputy Secretary, Government of India v. S. N. Das Gupta*, 1956).

The Impact

In May 2024, the ICAI indicated disciplinary actions initiated against different multinational accounting firms (MAFs) for violations of the code of conduct pursuant to the SC's ruling (*S. Sukumar v. Secretary, Institute of Chartered Accountants of India*, 2018) (Srivats, 2024a). The SC ruling paved the way for MAFs aligning with domestic accounting firms to be covered by the CA Act of 1949 and the Rules made thereunder. Consequently, ICAI passed orders against one of the "Big 4" accountancy firms, EY's three Indian affiliates, and imposed hefty penalties for professional misconduct. However, the Delhi HC subsequently passed an interim order to stay ICAI's impugned order (Srivats, 2024b). Again, the Delhi HC's ruling permits ICAI's DC to take action against an entire audit firm even when no individual can be held responsible for the allegations in a complaint, further fortifying the ICAI's commitment to adherence to high professional conduct (*Harinderjit Singh v. Disciplinary Committee Bench-III, Institute of Chartered Accountants of India*, 2024). Admittedly, PwC Indian affiliates of Satyam Computers claimed they could not detect any suspicious activities due to negligence and challenged ICAI's action against the entire firm. Amendments introduced in 2022 to the CA Act also brought audit firms along with errant auditors for professional misconduct under the discipline mechanism. However, the Ministry of Corporate Affairs (MCA) has yet to notify it. Noting that CAs are like "gatekeepers" of the Indian financial system, the Court underscored the need for a proper mechanism to prevent misconduct and preserve the profession's robustness and integrity. Furthermore, the Court directed the MCA to notify the amended Act expeditiously. The SC's landmark judgment of 2018 directed forming a three-member Committee of Experts to examine the possibility of building a statutory framework for enforcing Sections 25 and 29 of the 1949 Act and the statutory Code of Conduct for the CAs. It envisages revisiting the scope of the appropriateness of the disciplinary framework and regulating the MAFs at par with the Indian Chartered Accountancy Firms regarding breach of professional conduct under the said Act (*S. Sukumar v. Secretary, Institute of Chartered Accountants of India*, 2018).

A review of the catena of judgments of the SC and HCs concludes the word "misconduct" indicates a transgression of some established and definite rule of action; it could be a moral turpitude. It must be improper or wrong, unlawful, willful, forbidden, or transgression. Again, auditors are expected not to be involved in any conflict of interest, as strictly debarred and reiterated by the SC (*Board of Control for Cricket in India v. Cricket Association of Bihar*, 2015). Most of the judgments indicate that statutory auditors' mere breach of contracts without ill motives is unlikely to be referred to as mens rea. Again, mere allegations without any financial loss caused by the alleged negligence of the accused are legally unsustainable (*Hari Sao v. State of Bihar, 1969*; *Mohd. Ibrahim v. State of Bihar*, 2009). Admittedly, the onus lies on the defendant-litigant that he discharged his duty with a complaint with the law, honesty, and utmost integrity (*N. V. Subbarao v. State, 2013*; *Vinayak Narayan Deosthali v. Central Bureau of Investigation*, 2015). The SC rulings opened a debate on the mass resignations of statutory auditors and corporates exposed to accounting scams, such as the Yes Bank and IL&FS, which held the auditors responsible without proving their mens rea. Moral turpitude also has its uses in societal parlance, indicating any conduct that is inherently base, vile, depraved, or connected to depravity (*Neera Yadav v. Central Bureau of Investigation*, 2017). DC and judiciary require a careful analysis of the allegations labeled against the errant auditors before initiating disciplinary proceedings for professional misconduct leading to accounting shenanigans.

The socio-economic consequences of fraud are enormous and adversely affect stakeholders (Hulme *et al.*, 2021). With multiple accounting and audit failures, the global financial crisis of 2008 raised a severe concern about auditors' modus operandi of audit in general and firm-specific key audit matters (KAMs) and critical audit matters (CAMs) specifically (Dunne *et al.*, 2023). Research documents the importance of reporting KAMs in audit reports, for example, lean interest to invest by experienced investors (Christensen *et al.*, 2014), coupled with abysmal confidence in books of accounts (Kachelmeier *et al.*, 2020). On the other hand, analysts could assess a firm's critical financials if an audit report discloses CAMs and stakeholders dedicate more time to auditors' risk disclosures (Sirois *et al.*, 2018). Audit literature documents different factors leading to auditor litigations, such as reporting of fraudulent revenues, fictitious transactions, and restated core accounting items (Palmrose *et al.*, 2004). Although the auditor's opinion on going concern is a shield in the absence of mens rea (Kaplan & Williams, 2013), "corporate recidivism" is more culpable of having a significant negative impact on society, the firm's goodwill, and the image of accounting professionals (Wang *et al.*, 2023). Nevertheless, errant auditors are unlikely to take any lessons from history, as evidenced by the Indian corporate scams, such as IL&FS and Yes Bank vis-à-vis the Satyam debacle. Moreover, research paints a conflicting conclusion

(Lennox & Li, 2020) against the popular myth of auditors' responsibility for accounting failures (Saad & Lesage, 2009). However, despite the exposure of corporate financial gimmicks and fraud, auditors often fail to detect those (Nallareddy & Ogneva, 2017). Admittedly, auditors' ethical lapses adversely impact the detection of FS frauds and MMs (Arirail & Crumbley, 2019).

Role of NFRA

The collapse of Enron in the USA brings a global consensus regarding fundamental reform in the accounting and auditing profession to regulate self-regulating organizations (SROs) such as the ICAI (Sridharan, 2020). The NFRA came into existence vide Section 132(1) of the Companies Act of 2013, under the recommendation of the report of the Standing Committee on Finance. However, the government established it on October 1, 2018, after the SC's judicial intervention. It monitors enforcing the SA, ensuring high AQ, greater AI, functions of audit firms, and enhancing stakeholders' confidence in FS and disclosure. It has wide-ranging powers, including investigating CAs and their firms, listed and large unlisted companies, and any entity involving a substantial amount of public interest as notified by the central government. Admittedly, the need for establishing an NFRA to monitor the audit profession continues despite the presence of the accountancy profession regulator, ICAI. In 2016, the Companies Law Committee recommended the Companies Act of 2013 for the constitution of NFRA despite ICAI's objection. Considering many infamous audit failures and learning lessons from global experience, the Committee noted that auditors perform a crucial role and that an independent regulator must monitor the audit profession. Consequently, the insertion of restrictions on auditors rendering nonaudit services (NASs) in the Companies Act of 2013 is an appropriate step toward improving AQ and AI. Audit literature affirms the increasing acceptance of independent audit regulators for fortifying investors' confidence, improving corporate reporting practices and disclosure, transparency, and accountability to the auditing profession (Simnett & Smith, 2005). However, auditors and auditees are subject to investigation by multiple regulators (Juric et al., 2018), including in India. The ICAI's objections are unlikely tenable, as it has dual roles: regulating CAs, imposing disciplinary actions for professional negligence, and promoting the accountancy profession at a competing level at par with other professions. ICAI's continued opposition to forming the NFRA has deferred critical reform in the audit profession (Deb, 2024a). However, comprehensively addressing teething problems, NFRA is discharging its critical role as the regulator of the audit profession.

The critical role of NFRA against the backdrops of the debacles perpetrated by the IL&FS, Jaiprakash Associates, Yes Bank, and PNB is significant. In recent years, NFRA has played a vibrant role in improving AQ and maintaining the integrity of the audit profession by initiating punitive actions such as imposing penalties and debarring errant auditors from practice. On October 10, 2024, it imposed a ₹2 crore fine on an audit firm and ₹10 lakhs and ₹5 lakhs each on two errant auditors for professional misconduct, along with a ban of 10 years and 5 years, respectively, for accepting internal or statutory audit assignments. The Committee of Experts, constituted as per the ruling of the SC, recommends the vested power of NFRA for imposing civil liability and pecuniary penalties on the Indian audit firms that work in partnership/networking with the MAFs for any audit failure if they adopt faulty audit methodologies. However, ICAI argues that its Disciplinary Directorate is empowered to investigate the CAs guilty of professional misconduct under Clause (7) of Part I of the Second Schedule read with Sections 21 and 22 of the Act of 1949 (Deb, 2024a). US evidence indicates that punitive actions against errant auditors for professional misconduct are imposed (Westermann et al., 2019), and auditors have preferred those actions (Ege et al., 2020). NFRA is empowered to take punitive actions for professional misconduct, but ICAI's objections about the former's scope and modus operandi create severe repercussions among the auditors. The literature concedes the immense benefits of regulating statutory auditors, which significantly increases public interest in corporate reporting practices (Baker et al., 2014). In the past few years, Indian auditors have stepped down from audit assignments that are unlikely to be related to NFRA's punitive actions against errant auditors (Upadhyay & Sultana, 2018). Moreover, the SC's ruling upholding Section 140(5) of the Companies Act of 2013 paved the way for the continuation of proceedings against the errant auditors even after their resignations, likely to improve the AQ and AI substantially (Deb, 2024b).

The Way Forward

The present study attempts to assess the changing scenario of Indian accounting professionals after upholding Rule 9(3)(b) under the Chartered Accountants' (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, which allows the Board of Discipline to refer a complaint for misconduct to the DC despite the Director (Discipline)'s opinion that the person/firm accused of misconduct is not guilty and to advise the Director to investigate further. This study is likely the pioneer after the SC judgment.[3] It assesses its impact on the accountancy profession, specifically the auditing profession, particularly how auditors could exert more significant efforts in fraud prevention and shun perpetrating professional misconduct. It critically discusses different judicial pronouncements about professional misconduct and the role of NFRA in punishing errant auditors. It carefully reviewed the literature and controversies between ICAI and NFRA regarding regulating the auditing profession. Albeit since its inception, NFRA has attempted to regulate the auditing profession and impose punitive steps for professional misconduct, the role of DC of the Council of ICAI is unlikely to be dispensed with, as affirmed by the SC. Critical fraud analysis sometimes suggests that different regulators, such as the RBI and SEBI, have imposed severe punishments on errant auditors. However, they have qualified audit reports and complaints with the SA 260 "Communication with those charged with Governance," on a real-time basis, they have rightly communicated to the management, indicating material weaknesses in the internal control system identified during the audit. Consequently, the auditors become scapegoats and pay a considerable price for reputation loss and hefty fines, with a ban on the practice.

The study contributes literature related to the underlying theoretical framework. It would contribute to the *AEG theory* as the SC judgment[3] upholding the complaint to the DC would likely minimize MMs and auditors' professional misconduct. The auditors could apply enhanced PS in discharging the statutory audit function, which could substantially improve AQ and AI. It would align with the *policeman theory* as the auditors, after the said judgment, would be proactively motivated to achieve the secondary audit objective, that is, their responsibility for identifying and reporting fraud and error [SA 240 (Revised)]. The auditors are likely to exert their best effort to improve AQ, which could substantially increase stakeholders' credibility in the audited FS, affirming the credibility theory. The Apex Court judgment could caution auditors about maintaining the highest degree of professional integrity, which is likely to minimize audit failures and instances of professional misconduct. The improved AQ could affirm the *economic theory.* Theoretically, auditors are the gatekeepers of the stakeholders, preventing accounting shenanigans and fraud. However, practically, it is difficult for statutory auditors to detect fraud perpetrated by management since the primary objective of the audit is to express an opinion as to the truthfulness and fairness of FS (SA 200). Nevertheless, reasonable assurance of the truth and fairness of the FS instills public confidence in the audited FS. Admittedly, detecting and preventing fraud and error is the secondary audit objective (SA 200). Infamous corporate debacles raised severe questions about the statutory audit function, particularly postjudicial interventions. Audit failures lead to a few corporate fiascos, for example, Satyam, IL&FS, PNB, and Café Coffee Day. The research concludes that audit failures could be due to the statutory auditor's professional negligence or faulty applied audit techniques.

Critics argue that liticaphobia likely compelled the auditors' mass resignations in the past few years, which was probably refuted by SC (*Union of India v. Deloitte Haskins and Sells LLP*, 2023) upholding Section 140(5) of the Companies Act of 2013. Similarly, the Apex Court ruling suggests that the auditors (CAs) could not absolve themselves from their professional duties if they smelled a red flag in the auditee's FS but failed to prevent it due to professional negligence. The auditors are likely to face disciplinary proceedings as DC could impose penalties, as affirmed by the SC ruling (*Naresh Chandra Agrawal v. Institute of Chartered Accountants of India*, 2024). However, the tug-of-war between the NFRA and ICAI will likely intensify further regarding the former's issuing of a Consultation Paper on revising the Auditing Standard (SA 600, Using the Work of Another Auditor). NFRA argues that many audit firms and auditors fail to understand their legal responsibilities and erroneously apply SA 600 due to auditors' gross negligence and lack of due diligence, leading to adverse impacts on public interests (Srivats, 2024c).

Professional misconduct, the central theme of the present qualitative study, is linked with the definition of AQ proposed by DeAngelo (1981), that is, the probability of an auditor discovering and reporting any breach in the auditee's accounting system. Experience indicates that investigating many infamous scams and accounting gimmicks perpetrated due to auditors' lack of applying PS eventually leads to audit failures. However, NFRA's moot objective in past years indicates its commitment to improving the AQ. The draft Revised SA 600 is a bold step in that direction, which puts the onus on the principal/lead auditor in group audits to audit consolidated FSs. However, ICAI's apprehension about AI of small audit firms needs adequate addressing. Ideally, the principal and component auditor should be jointly responsible for improving AQ and preventing audit failures. The latter should be responsible for nonreporting KAMs or CAMs, while the former should not force the latter to report those. The final version is likely to incorporate the provision for improving the AQ. Setting aside the controversy related to the Standards on Quality Management (SQM) issued by ICAI, the SRO of the Indian accountancy profession, which are not treated as SA by NFRA; ICAI, NFRA, and MCA should treat them as measures to improve the AQ. SQM 1 will cover a CA firm's responsibilities to design, implement, and operate a system of quality management for audits or reviews of FSs, and SQM 2 will address the appointment and eligibility of the engagement quality reviewer and review process. Those would likely significantly improve the AQ, AI, and accountancy professions in general and, more specifically, the audit profession.

The SC ruling could open a new vista of research in the Indian accounting profession, particularly audit research. The CAs could not further plead that the Director (Discipline) absolved themselves from the alleged professional misconduct, and the DC could not initiate an investigation. CAs (auditors) are unlikely to defend by justifying that they were not in unholy nexus with the perpetrator management in exposed accounting gimmicks and audit failures. Instead, they should prove they applied utmost professional conduct in discharging statutory audit functions. The SC ruling could motivate the CAs to revisit their modus operandi and apply appropriate audit techniques during the audit to avoid audit failure in general and prevent themselves from punitive action. The verdict could substantially increase stakeholders' confidence and trust in audited FS, specifically the gullible retail investors such as the investors of Satyam Computers, IL&FS, Yes Bank, PNB, IBL, and others. The study further sheds light on how the SC affirms the quasi-judicial role of the Council of ICAI in regulating the Indian accountancy profession. Apart from the statutory auditors, the internal auditors, the pivotal pillar of the internal control system, could take a lesson from the ruling in revisiting their audit plans and strategies to prevent fraud and errors. They could chalk audit plans with a zero-tolerance policy against fraud and errors. Like their external counterparts, as they could also be held responsible for professional misconduct, they are likely to exert the highest professional commitment. The ruling could lead to building a robust CG system for corporate India in the near future. Apart from auditors, other stakeholders could use the current study report to assess the auditors' statutory role in improving AQ and curbing fraud and accounting shenanigans.

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