

THE DISCIPLINARY TRIBUNAL
OF THE TAXATION DISCIPLINARY BOARD

TDB/2025/15

THE TAXATION DISCIPLINARY BOARD

TDB

– and –

MR SHARATH MAHALINGA
(ATT Student Number 261237)

Defendant

Date of Hearing	12 and 26 June 2025
Date of Review of Decision	15 September 2025
Venue	Virtual using Microsoft Teams

Tribunal Members

Legally Qualified Chair	Jacqueline Findlay
Professional Member	Martin Brown
Lay Member	Michael McCulley

Taxation Disciplinary Board (“TDB”)

Case Presenter	Guy Micklewright, Counsel
Witness	Vicky Purtill, ATT’s Director of Education
Tribunal Clerk	Nigel Bremner
Member	In attendance

DECISION AND REASONS

Introduction

1. The Disciplinary Tribunal (“the Tribunal”) of the TDB sat remotely on 11 and 26 June 2025 to hear charges brought by the TDB against the Defendant, Mr Mahalinga, a student member of the Association of Taxation Technicians (“ATT”).

2. The following abbreviations are used in this Decision:

The “CIOT” means the Chartered Institute of Taxation;

The “ATT” means the Association of Taxation Technicians;

The “Regulations” means the Taxation Disciplinary Scheme Regulations 2014 (as amended November 2016 and January 2024);

“PRPG 2018” means the Professional Rules and Practice Guidelines effective from 9 November 2018 (updated 2021);

The “ISG” means the Indicative Sanctions Guidance as revised.

Procedure

3. The Tribunal had regard to a main bundle (“MB”) of 105 pages (A1 to E16), a supplementary bundle (“SB”) of 14 pages, an On-table bundle (7 pages), Revised Schedule of Charges (3 pages), a Schedule of proposed amendments to Charges (4 pages), Meeting Bundle (6 pages), the Defendant’s Response Form dated 25 June 2025, a witness statement from Ms Purtill, ATT’s Director of Education, dated 19 June 2025, a transcript of Ms Purtill’s oral evidence dated 27 June 2025 and email correspondence between the Defendant and the Clerk to the TDB.
4. The Tribunal considered the provisions of Regulation 14 had been complied with. The Tribunal was satisfied that the Defendant had been notified of the dates of the hearings and the documents as required under Regulation 14.1. The Tribunal was satisfied that the Defendant had been given reasonable notice of the hearings and a reasonable opportunity to prepare his case.
5. The Tribunal heard a submission from Mr Micklewright, evidence from Ms Purtill and oral evidence from the Defendant.

6. Ms Purtill's witness statement dated 19 June 2025 was sent to the Defendant before the second hearing on 26 June 2025 and the Tribunal heard oral evidence from Ms Purtill on 26 June 2025. The Tribunal announced its decision on 26 June 2025 but no written decision was issued. Post-hearing further cases with issues similar to this case came before the Tribunal. In one of these cases the Tribunal received oral witness evidence from Ms Purtill relating to the witness statement she had provided. This evidence was not before the Tribunal when determining the case. The Defendant was provided with a transcript of Ms Purtill's evidence on 24 July 2025 to enable him to consider whether or not there was anything contained in the transcript of evidence upon which the Defendant wished to make comment or whether in the light of Ms Purtill's evidence the Defendant might have presented his defence in a different manner.
7. The Defendant was directed on 18 August 2025 to file within 14 days a written statement of no more than two sides of A4, setting out all the points on which he sought to rely in his defence, taking into account the transcript of the evidence of Ms Purtill dated 27 June 2025. The Defendant filed no statement and made no representation in reply to these directions.
8. The Tribunal reconvened on 15 September 2025 to consider whether the decision given orally on 26 June 2025 should be amended or revised. The Tribunal was satisfied that the Defendant had been given the opportunity to respond to the transcript of Mr Purtill's oral evidence dated 27 June 2025 and had decided not to do so. The Tribunal was satisfied it was fair and just to make a decision on the basis of the evidence available.
9. The Tribunal was satisfied on the basis of the totality of the evidence that the decision made on 26 June 2025, as set out below, should stand.

Preliminary Matters

10. When the case came before the Tribunal on 12 June 2025, Mr Micklewright applied to amend the Charges 1.2 and 1.3 to replace the reference to 'ATT's Code of Conduct for examinations' with the 'ATT Online Examination Regulations 2024.' The Defendant had no objection to the amendments, and the Tribunal allowed the application.
11. On 12 June 2025 the case was adjourned part hear because evidence within the MB (pages 28 to 77) recorded that the Defendant engaged in communication via Google Chat to exchange examination questions and answers, including responses generated by ChatGPT 4.0, with another individual. In these circumstances the TDB was invited to amend the Charges. The Defendant was given notice of the proposed amended Charges to enable him to prepare and present his case.
12. When the case became before the Tribunal on 26 June 2025, the Defendant stated he had no objection to the addition of Charge 2, and the Tribunal allowed the application.
13. In the Response Form and at the hearing on 26 June 2025, the Defendant applied for the hearing to be held in private because the case involved sensitive personal, emotional and financial circumstances. He had worked for over eight years in a respected role with a reputable firm earning strong professional goodwill. He had been mentally distressed and emotionally affected. The matters were deeply personal and were having a significant impact on his well-being. Discussing these matters in public could cause further emotional distress and reputational damage. He submitted that a private hearing would be more appropriate and would allow a fair, respectful and compassionate consideration of his case.

14. The Tribunal had regard to the provisions of Regulations 29.1 that all hearings shall be held in public, but the press and public can be excluded from all or any part of the proceedings if it appears desirable to do so in the interests of justice or for any other reasons.
15. Mr Micklewright submitted that the TDB had no objection to those parts of the hearing relating to personal or health matters being in private but that the public interest in the hearing being in public and the general principle of open justice required openness and transparency. It was important for the reputation of the profession to be protected by openness, and public interest in transparency outweighed any person embarrassment to the Defendant. The Hearing Chair was satisfied that there were no compelling reasons to depart from the normal principle and directed that the hearing should be public save for privacy in relation to personal matters.

Background

16. The complaint relates to the Defendant who is a student member of the ATT. It is alleged that he made direct use of AI and communicated with another person during the ATT examination on 6 November 2024.
17. The use of AI and communication with another person were identified through post-examination work. This included use of the ChatGPT website which can be seen as being open through the taking of screenshots through the live examination.
18. The Defendant was referred to the ATT Examinations Steering Group who reviewed the evidence and disqualified the Defendant and requested he be referred to the TDB.
19. The allegations appear to involve potential breaches the PRPG 2018.
20. The Charges are as follows:

Charge 1

1.1 When sitting the ATT Paper 2 – Business Taxation Examination on 6 November 2024, the Defendant used a Generative Artificial Intelligence product (“GENAI”).

1.2 The Defendant was dishonest, in that he knew at the time of the examination that the use of GENAI was in breach of the ATT Online Examination Regulations November 2024.

1.3 Alternatively, the Defendant ought to have known at the time of the examination that the use of GENAI was in breach of the ATT Online Examination Regulations November 2024.

1.4 If charges 1.1 and 1.2 and/or 1.3 are proved, the Defendant is in breach of:

(a) Rules 2.1 and 2.2.1 in that he acted in breach of the fundamental principle of integrity;

(b) Rules 2.1 and 2.6.2 and/or 2.6.3 in that he did an act which discredits the profession, in breach of the fundamental principle of professional behaviour in that he failed to:

(i) uphold the professional standards of the ATT as set out in the Laws of the CIOT and ATT; and/or

(ii) take due care in his professional conduct and professional dealings; and/or

(iii) performed his professional work improperly or negligently to such an extent as to be likely to bring discredit to himself, to the ATT or to the tax profession; and/or

(iv) conducted himself in an unbecoming or unlawful manner, which tends to bring discredit upon a member and/or may harm the standing of the profession and/or the ATT.

Charge 2

2.1 When sitting the ATT Paper 2 – Business Taxation Examination on 6 November 2024, the Defendant engaged in communication with another individual.

2.2 The Defendant was dishonest, in that he knew at the time of the examination that such conduct was in breach of the ATT Online Examination Regulations November 2024.

2.3 Alternatively, the Defendant ought to have known at the time of the examination that such conduct was in breach of the ATT Online Examination Regulations November 2024.

2.4 If charges 2.1 and 2.2 and/or 2.3 are proved, the Defendant is in breach of:

(a) Rules 2.1 and 2.2.1 in that he acted in breach of the fundamental principle of integrity;

(b) Rules 2.1 and 2.6.2 and/or 2.6.3 in that he did an act which discredits the profession, in breach of the fundamental principle of professional behaviour in that he failed to:

(i) uphold the professional standards of the ATT as set out in the Laws of the CIOT and ATT; and/or

(ii) take due care in his professional conduct and professional dealings; and/or

(iii) performed his professional work improperly or negligently to such an extent as to be likely to bring discredit to himself, to the ATT or to the tax profession; and/or

(iv) conducted himself in an unbecoming or unlawful manner, which tends to bring discredit upon a member and/or may harm the standing of the profession and/or the ATT.

Ms Purtil's evidence

21. Ms Purtil confirmed that the contents of her witness statement dated 19 June 2025 were true. She explained that the ATT Online Examination Regulations had always made clear that a candidate had to submit their own work but that before the November 2024 examinations the Regulations had not been clear in relation to the direct use of GENAI. Accordingly, the ATT Online Examination Regulations 2024 were amended and notified to candidates in the emails sent out on 16 October 2024. The ATT Noticeboard was amended, also, on 16 October 2024 to show the 2024 Regulations.
22. Ms Purtil stated that the software was not able to identify the individual with whom the Defendant communicated and only captured the details of the communication.

Response to Charges

23. In the Response Form signed on 25 June 2025, the Defendant admitted Charge 1.1, he denied Charges 1.2, 1.3 and 1.4 and he admitted Charges 2.1, 2.2 and 2.3. He made no response to Charge 2.4.
24. The Charges were put to the Defendant at the hearing by the Clerk and he confirmed that he admitted Charges 1.1 and 1.4(a)(b)(i)(ii)(iii) and (iv). He denied Charges 1.2 and 1.3. He admitted Charges 2.1, 2.2, 2.3 and 2.4 (a) (b)(i)(ii)(iii) and (iv).
25. In an email dated 23 January 2025 (page 15 MB) the Defendant admitted using GenAI during the examinations. He stated that his intention was purely to understand the concepts better. He asserted that the answers given were his own work. He made an effort to apply his understanding independently.

26. In the Response Form, the Defendant admitted using GENAI during the examination, but he denied he acted dishonestly because at the time of the examination he did not fully understand the use of such technology. He did not act with any intent to gain an unfair advantage or to deceive the ATT in any way. He stated that his actions were the result of a genuine misinterpretation of the examination rules, not a deliberate or calculated attempt to violate them. He had been under enormous pressure having attempted this examination over several years and the stress of repeated attempts along with other things had affected his judgment during the examination. He stated that he deeply regretted the decision and accepted that he exercised poor judgment.

Findings

27. In making its findings, the Tribunal has borne in mind that the burden of proof rests on the TDB. The standard of proof is of the civil standard, which is the balance of probabilities.

28. When considering the question of dishonesty, the Tribunal has borne in mind the test for dishonesty in the case of *Ivey v Genting Casinos* [2017] 3 WLR 1212 that the Tribunal must first ascertain subjectively the state of the Defendant's knowledge or belief as to the facts. The reasonableness or otherwise of the Defendant's belief is a matter of evidence but it is not an additional requirement that the belief must be reasonable, the question is whether it is genuinely held. The question of whether the conduct was honest or dishonest is to be determined by applying the objective standards of ordinary decent people. There is no requirement for the Defendant to appreciate what he has done by those standards to be dishonest.

29. The Tribunal made the following findings:

- a) The Education Team of ATT sent an email to the Defendant dated 16 October 2024 which included instructions about the online exam regulations. The email stated: "*Remember to read the Online exam regulations. If you do not behave according to the exam regulations it can lead to disqualification.*" The "Online exam

regulations” was a hyperlink to the 2024 examination regulations which are reproduced at pages 26 and 27 of the MB and Exhibit VP1 of Ms Purtill’s witness statement dated 19 June 2025.

b) Paragraphs 1 and 12 of the ATT Online exam regulations 2024 stated:

1. *The direct use of GenAI is not permitted. Your answers must be your own work.*
12. *The Online exams will again be Open book, this means you may refer to any books, study manuals, pre-prepared notes and online resources during the exams.*

c) The Defendant signed a registration declaration when making his application to ATT to comply with and be bound by the Articles of Association, the ATT Regulations and the PRPG 2018 (pages 19 and 20 MB). The Defendant stated in oral evidence that he did not read the declaration at the time before signing it.

d) When undertaking ATT Paper 2 – Business Taxation examination on 6 November 2024, the Defendant used the AI tool ChatGPT 4.0 and Google Chat to answer specific questions related to the exam questions. The Defendant out of the 46 screen captures was observed using Google Chat in images 1-9, 13, 16, 20-28 and 32-46 to communicate with another individual. He is seen typing exam questions from the examination paper and sharing the responses generated by Chat GPT 4.0 with another person. Screen captures 11, 12, 14, 15, 17, 18, 19, 29, 30 and 31 show the Defendant using Chat GPT 4.0 (pages 28 to 77 MB).

e) The Defendant’s evidence was inconsistent and for that reason unreliable and not credible. For example, he stated in the Annex A Agreement to Consent Order procedure Form, that his actions were not deliberate and were not driven by dishonesty (page 100 MB) whereas in oral evidence he stated that he had acted dishonestly. In the email dated 22 January 2025 (page 13 and 14 MB) the Defendant stated that he used the Google search engine to enhance his

understanding of certain concepts and that some of the search results may have been AI-generated without his knowledge. In oral evidence he admitted using ChatGPT to obtain answers to questions.

f) The Defendant admitted to the Tribunal that he arranged in advance with the person from whom he received assistance and with whom he communicated, with a view to referring questions and answers to her to obtain her assistance.

g) The Defendant acted in a premeditated way to obtain an advantage in the examinations knowing that his actions were in breach of the ATT Online Examination Regulations and that the answers he produced were not his own work.

h) The Defendant communicated with another person during the examination. In oral evidence he admitted that he understood this was not permitted and that he had acted dishonestly in communicating with another person. Although he stated he did it deliberately as had made an arrangement before the examinations he stated also that it was 'out of his hands.' In explaining this expression, he stated that he needed to pass the examination in order to excel in his professional life. He was aware that his membership was due to come to an end, and he had failed the examination on a number of previous occasions.

i) The Defendant read the ATT Online Examination Regulations 2024 that were sent to him through the hyperlink in the email dated 16 October 2024 and was aware of the prohibition on using GENAI directly, the prohibition on communicating with others during the examination and that his work must be his own.

- j) The Defendant acted dishonestly when applying the objective standards of ordinary decent people. There is no requirement for the Defendant to appreciate what he has done by those standards to be dishonest.

Decision on the Charges

30. The Tribunal found Charge 1.1 proven on the basis of the Defendant's admission in the Response Form, his oral evidence and the evidence at pages 28 to 77 of MB. The Tribunal found that when sitting the ATT Paper 2 – Business Taxation examination on 6 November 2024 the Defendant used a GenAI.
31. The Tribunal found Charge 1.2 proven on the basis of the above findings and his oral evidence. The Tribunal found that the Defendant was dishonest in that he knew at the time of the examination that such conduct was in breach of the exam regulations that the work must be his own.
32. The Tribunal found Charge 2.1 proved on the basis of Defendant's admission in the Response Form and at the hearing.
33. The Tribunal found Charge 2.2 proved on the basis of the Defendant's admission at the hearing. He knew that at the time of the examination it was not permitted to communicate with another person, but he made arrangements in advance to refer questions and answers to another person to obtain their assistance and thereby gain an advantage.
34. Having found that Charges 1.2 and 2.2 proved the Defendant was in breach of Rules 2.1, 2.2.1, 2.6.2 and 2.6.3. He acted in breach of the fundamental principle of integrity and did acts which discredit the profession, in breach of the fundamental principle of professional behaviour. He failed to uphold the professional standards of the ATT, he failed to take due care of his professional conduct and professional dealings and performed his professional work improperly or negligently to such an extent as to be likely to bring discredit to himself, to the

ATT or to the tax profession and conducted himself in an unbefitting or unlawful manner, which tends to bring discredit upon a member and may harm the standing of the profession and the ATT.

Sanction

35. In determining what, if any, sanction to impose the Tribunal had regard to the ISG as revised and applying to all cases on or after 1 January 2025.
36. The Tribunal has borne in mind in approaching the task that it should start by considering the least severe sanction and only consider more serious sanctions if satisfied that the lesser sanction is not appropriate.
37. The Tribunal noted that the purpose of imposing a sanction upon a member, *'is not simply to discipline the individual or firm for any wrongdoing of which he or it may be culpable, but to protect the public and maintain the reputation of the profession by sending a signal as to how serious the Tribunal judges the conduct to be.'*
38. Any sanction imposed must be appropriate and proportionate, taking into account the member's own interests and should be the least onerous measure that adequately meets the facts of the charges found proved.
39. The Clerk informed the Tribunal that there were no previous disciplinary findings against the Defendant.

40. The Tribunal considered the mitigating factors which are summarised as follows:

- a) There has been no previous regulatory history.
- b) The misconduct related to only one examination.
- c) He expressed regret for his actions.

41. The Tribunal considered the aggravating factors as follows:

- a) The Defendant used ChatGPT on multiple occasions during the examinations.
- b) He did not act on the spur of the moment and made arrangements in advance with another person to obtain their assistance.
- c) He read the ATT Online Examination Regulations and was aware that ChatGPT was not permitted and that communication during the examination was not permitted.
- d) The Defendant gave different explanations for the breaches and has not expressed a genuine understanding of his failings.

42. The Tribunal has assessed the different sanctions in ascending order of seriousness. The Tribunal was of the view that taking no further action or allowing the matter to rest on the file was disproportionate to the seriousness of the Charges. An apology was clearly not appropriate in the circumstances. The Tribunal was of the view that a warning was not appropriate because the misconduct was more than minor and the imposition of a fine was not appropriate. The Tribunal was of the view that a censure was not appropriate because the misconduct was of a serious nature and there were no particular circumstances or mitigation which satisfied the Tribunal that the misconduct was not deliberate and no clear demonstration by the Defendant of his understanding and appreciation of his failings. A fine was not appropriate taking into account the

Defendant's financial situation. A suspension was not appropriate given the nature and seriousness of the Charges found proven.

43. Taking account of all the circumstances, the Tribunal determined that there should be a recommendation that the Defendant be removed from the Register, notwithstanding that his membership expires on 30 July 2025 (page 4 MB) because the misconduct was so serious as to undermine confidence in the profession if a lesser sanction were to be imposed. In reaching its decision the Tribunal considered that the actions of the Defendant were a serious departure from the relevant professional standards and there was dishonesty in his actions. The Tribunal was satisfied that the wider public interest will be preserved by the imposition of this sanction.

44. In reaching its decision the Tribunal considered Section 4(10) of ISG Student Issues. The Tribunal noted that the examples of misconduct although not strictly analogous to this case did provide some guidance in relation to obtaining improper assistance during an examination and the guideline that if the Tribunal is satisfied that there was no intention to cheat then in the absence of other misconduct factors, a lesser sanction than removal from the Register should be considered.

Costs

45. The TDB, at the hearing, applied for costs in the sum of £3,513.

46. The Tribunal had regard to the ISG's Guidance on Awarding Costs in dealing with a Defendant against whom a charge has been proved. The presumption that an unsuccessful Defendant should pay costs is based on the principle that the majority of professional members should not subsidise the minority who, through their own failings, have brought upon themselves disciplinary proceedings.

47. The power to award costs is discretionary. The general principle requires exceptional circumstances for a Tribunal not to award costs against an unsuccessful Defendant. The Tribunal found no reason to depart from that presumption as it found that there were no exceptional circumstances.
48. The Defendant asked for a reduction of the costs because he was finding it difficult to find new employment and manage his basic responsibilities and would only be able to pay the costs after getting a new job.
49. In the absence of any evidence of his financial circumstances the Tribunal is entitled to assume the Defendant has the ability to pay the costs.
50. The Tribunal was satisfied that costs of £3,513 were proportionately and reasonably incurred.
51. The Tribunal was of the view that the costs of £3,513 were relevant to this case and would not have been incurred save for the Defendant's own failings and actions.
52. The Tribunal decided that the Defendant should pay £3,513 costs to the TDB to be paid by installments within 12 months by 25 June 2026.

Publicity

53. The Tribunal noted the guidance in Annex A of the ISG on the publication of disciplinary findings and Regulation 28.

54. The Tribunal noted the general principle that any disciplinary finding made against a member would be published and the member named in the publication of the finding. The purpose of publishing such a decision was not to add further punishment for the member. It was to provide reassurance that the public interest was being protected and that where a complaint was made against a member of one of the professional bodies covered by the Taxation Disciplinary Scheme, there were defined, transparent procedures for examining the complaint in a professional manner and for imposing a sanction upon a member against whom a disciplinary charge had been proved.
55. The Tribunal further noted that while regulation 28 makes a presumption in favour of publishing the findings made by a Tribunal, there is a discretion to order that there should not be publication of the name of the member, or the details or orders made against the member. The Defendant requested that the Tribunal's decision be not disclosed as could permanently impact his ability to secure future employment. The Tribunal has borne in mind the guidance in the ISG in Annex A that the discretion not to publish the findings where in exceptional circumstances both the conduct was not serious, and publication might have an adverse impact on innocent third parties. This was not applicable in this case. Additionally, a Tribunal might exercise its discretion not to publish in exceptional circumstances where the conduct was not serious and where publication would be unduly harsh and have an adverse impact on a member's health. Again, this was not applicable in this case.
56. The Tribunal found that the conduct was serious and there was a public interest in the Defendant's name being published.

57. The Tribunal ordered that, in accordance with Regulation 28.1, this Decision and Reasons should be published as soon as practicable. The Decision and Reasons should remain on the TDB website for a minimum period of five years in accordance with Annex A of the ISG.

Effective Date

58. Pursuant to Regulation 20.10 of the Regulations, this decision will be treated as effective from the date on which it is deemed served on the Defendant.

Jacqueline Findlay

Hearing Chair, Disciplinary Tribunal

Signed: 26 June 2025

Reconsidered: 15 September 2025