



# THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[PR/48/2014/DD/78/2014-DC/595/2017]

**ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949 READ WITH  
RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF  
PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.**

**In the matter of:**

**Shri G. Rajaraman, Chennai**

**-vs-**

**CA. G Natesan (M.No.027666), Pondicherry**

**[PR/48/2014/DD/78/2014-DC/595/2017]**

**MEMBERS PRESENT:**

- 1. CA. Atul Kumar Gupta, Presiding Officer**
- 2. CA. Amarjit Chopra, Government Nominee**
- 3. CA. Rajendra Kumar P, Member**
- 4. CA. Chandrashekhar V. Chitale, Member**

1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 dated 09.07.2018, the Disciplinary Committee was of the opinion inter-alia that **CA. G. Natesan (M. No. 027666)** (hereinafter referred to as the “**Respondent**”) was **GUILTY** of professional Misconduct of professional misconduct falling within the meaning Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 as amended from time to time.

2. That an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and communication dated 29<sup>th</sup> April, 2019 was addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 18<sup>th</sup> May, 2019 at Chennai.

3. The Respondent appeared before the Committee on 18<sup>th</sup> May, 2019 and made his oral/ written representations on the findings of report of Disciplinary Committee.

4. The Committee noted that the following charge against the Respondent, in which he has been held guilty of professional misconduct.

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4.1 The Complainant is a retired partner of M/s. Pondy Power Sets (hereinafter referred as **the firm**) and his capital account was shown as closed without paying the balance amount of Rs. 23,84,649/- during 2010-11. The Respondent was the Tax Auditor of the said firm for Financial Year 2010-2011.

5. The Committee considered the oral/written submissions made by the Respondent and findings of the earlier Committee holding the Respondent guilty of professional misconduct. The Committee was of the view that the Respondent failed to exercise due diligence while performing tax audit assignment of the firm.

6. Thus, keeping in view the facts and circumstances of the case as aforesaid, the material on record, submissions of the Respondent before it, this Committee orders that the Respondent i.e. CA. G Natesan (M.No.027666) be reprimanded and a fine of Rs. 25,000/- (Rupees Twenty Five Thousand only) plus applicable taxes (i.e. total sum of Rs. 29,500/- including GST as applicable) be also imposed upon him to be paid within 30 days of receipt of this order.

Sd/-  
(CA. ATUL KUMAR GUPTA)  
PRESIDING OFFICER

Sd/-  
(CA. AMARJIT CHOPRA)  
GOVERNMENT NOMINEE

Sd/-  
(CA. RAJENDRA KUMAR P)  
MEMBER

Sd/-  
(CA. CHANDRASHEKHAR V. CHITALE)  
MEMBER

DATE : 18/05/2019

PLACE : CHENNAI



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**CONFIDENTIAL**

**DISCIPLINARY COMMITTEE [BENCH – II (2018-2019)]**

**[Constituted under Section 21B of the Chartered Accountants (Amendment) Act, 2006]**

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

**File No. : [PR-48/14-DD/78/2014/DC/595/2017]**

**In the matter of:**

**Shri G. Rajaraman**

Old No. 14, New No. 31,

13<sup>th</sup> Cross Street,

New Colony,

Chromepet,

**Chennai - 600 044**

**Versus**

**.....Complainant**

**CA. G. Natesan (M. No. 027666)**

78, Subbarayalu Nagar,

Fourth Cross Street,

Cuddalore,

**Pondicherry- 607002**

**.....Respondent**



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**MEMBERS PRESENT:**

CA. Prafulla P. Chhajed, Presiding Officer  
CA. Amarjit Chopra, Government Nominee  
CA. Mangesh P. Kinare, Member

CA. Sushil Kumar Goyal, Member

DATE OF FINAL HEARING : 23.04.2018

PLACE OF FINAL HEARING : ICAI Bhawan, CHENNAI

**PARTIES PRESENT:**

Complainant : Shri G. Rajaram  
Respondent : CA. G. Natesan  
Counsel for Respondent : CA. J. Prabhakar  
**Charge in Brief:-**

1. The Complainant is a retired partner of M/s. Pondy Power Sets (hereinafter referred as **the firm**) and his capital account was shown as closed without paying the balance amount of Rs. 23,84,649/- during 2010-11. The Respondent was the Tax Auditor of the said firm for Financial Year 2010-2011.

**Brief facts of the Proceedings:**

2. At the time of hearing held on 23.04.2018 at Chennai, the Committee noted that the Complainant in person and the Respondent with his Counsel were present and appeared before it.



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2.1 The Complainant and the Respondent were put on oath. The charges were taken as read with the consent of the parties present. On being asked as to whether the Respondent pleads guilty, he replied in negative.

2.2 The Complainant substantiated the charges and made his submissions. Thereafter, the Counsel for the Respondent gave his detailed submissions. Both the parties were examined and after recording their submissions, the Committee directed them to file their final written submissions and further documents (if any) in respect of allegations within 15 days with a copy to each other .

With these directions, the hearing in captioned matter was concluded.

**Findings of the Committee:**

3. The Committee noted that the Respondent was the Tax Auditor of the firm for Assessment Year 2011-2012 (Financial Year 2010-2011). In respect of above charge, the Respondent in his written statement dated 07/04/2014 has stated that he had been informed that the Complainant's dues were taken over by Managing partner i.e. Shri A. Nadarajan as he had transferred personal property costing Rs. 8,30,000/- whose market value was 25,00,000/- on 09.07.2010 to the Complainant to square off the Complainant's outstanding balance in Firm.
- 3.1 At the time of hearing, the Counsel for the Respondent stated that out of total Rs. 33.84 lacs which were payable to the Complainant on account of his outstanding capital account as on 31.03.2010, Rs. 10.00 lakhs was paid to him through cheque and in respect of balance amount, house property worth Rs. 25 lacs (book value Rs. 8.30 lacs) was transferred by the incoming partner to the Complainant. The Complainant accepted before the Committee that he resides in the house transferred by Managing partner Mr. A. Nadarajan, however, he had paid separately for this house and his legitimate dues from firm were outstanding and not settled.



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- 3.2 Further, the Complainant stated that he has received only Rs. 10.00 lakhs out of total dues Rs. 33.84 Lakhs and his capital account has not been settled. Furthermore, on being enquired by the Committee regarding any action taken by him against the other partners of the firm, he submitted that he is going to send legal notice (s) to partners of the firm and will file case against them also.
- 3.3 The Committee took into consideration a letter dated 28/03/2011 written by Counsel of firm to Counsel of the Complainant whereby vide para 13, it has been claimed by the firm that Rs. 10.00 lacs has been paid by cheque, Rs. 15,54,649.00 has been paid through cash and house property of Rs. 8.30 lacs has also been transferred to the Complainant. The Committee therefore observed that there were certain contradictions in the payment settlement have been made by the firm to the Complainant.
- 3.4 After hearing submissions of both the parties, the parties were directed to give their further submissions. It was also directed to the Complainant to submit copy of notices sent by him to the partners of the firm (if any) for his pending dues.
- 3.5 As per the above directions of the Committee, the Respondent vide his letter dated 27/04/2018 has submitted affidavits of partners of the firm M/s. Pondy Power Sets to support his claim that all dues of the Complainant has been squared off. Further, as per affidavit of other partner, Mr. B. Rajendran, it is stated that value of said house property is Rs. 28 lakhs to 30 lakhs approx which the Complainant acquired from Mr. A. Nadarajan in lien of settlement of his dues free of cost.
- 3.6 In view of above submissions and affidavit, the Committee noted that the whole issue in the captioned matter is that the dues of the Complainant as on 31.03.2010 Rs. 33,84,649 were shown as squared off in the capital account of the Complainant in the Audit Report of the firm for the year ended on 31.03.2011. On perusal of papers on record, it is noted that Rs. 10.00 lakhs were paid to the Complainant on 15.04.2010 vide cheque no. 908059 drawn on Indian Overseas Bank and same has been duly received by the Complainant as admitted by him before the Committee during the hearing.
- 3.7 Further in respect of remaining balance i.e. Rs. 23,84,649.47, on perusal of ledger account of Mr. A. Nadarajan, Managing Partner of the firm, it is evident that he has taken that liability on behalf of the firm. As per admission of the Complainant before the Committee it is on record that house property of value Rs. 8,30,000.00 (value as on year 2006) is in his possession.



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3.8 Moreover, the Complainant vide his letter dated 30/04/2018 has stated as under:-

*(i) During financial year 2010-2011, the Respondent did not open retired partners loan account to transfer the unpaid amount Rs. 23,84,649 and to settle the amount by the firm on a later date or by his client A. Nadarajan when his client had paid the occupier status on 01.01.2011 to handle the finance of the firm.*

*(ii) But the Respondent created Reserve and Surplus account for Rs. 24,23,634 under liabilities head in financial year 2010-2011 to hide balance capital Rs. 23,84,649 of the Complainant.*

*(iii) The said Reserve and Surplus amount Rs. 24,23,634 is not appearing in Form 3 CD and the God's account Rs. 2,928 is added to this amount to show as Rs. 24,26,562.*

*(iv) In previous financial years 2008-2009 and 2009-2010, the Respondent did not created any Reserve and Surplus account under liabilities head. The God's account was used to be shown as Reserve and Surplus.*

*It is clear that Rs. 23,84,649 was absorbed in the capital account of A. Nadarajan on 21.05.2010 without paying the amount and was recorded in a falsified manner that liabilities taken over and showed a false debit of Rs. 23,84,649.47 in capital account of the Complainant without his acceptance and filed firm's IT returns on 01/06/2011.*

3.9 In context of above, the Committee noted that the Complainant has brought on record Deed of Sale dated 09/07/2010. On perusal of that it is noted that same was executed in favor of the Complainant for an amount of Rs. 8,30,000.00. In said deed, there is no mention that it is executed in lieu of liability taken over by Mr. A. Nadarajan for payment of capital amount of the Complainant due from the firm. Further, during the hearing, the Complainant submitted that said house property has been purchased by him from Mr. A. Nadarajan. The Committee further noted that said sale deed was entered on 09/07/2010 for market value Rs. 8,30,000.00 and entry in books of firm was passed on 21/05/2010 for Rs. 23,84,649.47.

In view of above, the Committee observed that on the date of recording of said transaction neither there was any evidence for settlement of dues of the Complainant nor any proof which may establish that sale deed dated 09/07/2010 was for the settlement of all dues of the



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Complainant or the market value of property so transferred was equivalent to dues of the Complainant.

Thus, the Committee was of the opinion that it is not as per accounting concept to record this transaction in books of firm unless until there is no positive evidence showing the settlement of dues of the Complainant against the firm.

- 3.10 Moreover, the Committee was of the view that even it is assumed that the said property was transferred by Mr. A. Nadarajan in lieu of whole dues of the Complainant, there was no evidence to show the value of said property equivalent to dues of the Complainant at the time of audit done by the Respondent and in absence of any documentary evidence, it is wrong on the part of the Respondent that as per the verbal explanations of managing partner of the firm, he has assumed value of house property equivalent to Rs. 23,84,649.00.
- 3.11 The Committee also observed that there is contradiction in the claim made by the Respondent. At one hand he is claiming that balance amount was paid by firm in cash and on other hand he is claiming that value of property transferred by Mr. A. Nadarajan was equivalent to balance amount payable to the Complainant.
- 3.12 Further, even if it is assumed that payment was done in cash, there is nothing on record to prove that Rs. 15,54,649.00 was paid in cash to the Complainant as claimed by the firm in its letter dated 28/03/2011 addressed to Counsel of the Complainant.
- 3.13 In view of above, the Committee came to the view that the Respondent was required to mention the same either in Notes to Account or in his audit report. The Respondent failed to obtain proper and reasonable information/evidence from the concerned Mr. A. Nadarajan or the firm and thereby does not seem to have acted diligently in properly checking of payment of outstanding dues to outgoing partner. Hence, the Respondent is guilty of professional misconduct falling within the meaning of Clause (7) of Part I of second Schedule of Chartered Accountants Act, 1949, in as much as not exercising due diligence in conduct of professional duties.

**Conclusion**





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4. Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of professional misconduct falling within the meaning of (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-

(CA. PRAFULLA P. CHHAJED)

PRESIDING OFFICER

Sd/-

(CA. AMARJIT CHOPRA)

GOVERNMENT NOMINEE

Sd/-

(CA. MANGESH P. KINARE)

MEMBER

Sd/-

(CA. SUSHIL KUMAR GOYAL)

MEMBER

DATE :09<sup>th</sup> July, 2018.

PLACE : New Delhi