

CONFIDENTIAL

**DISCIPLINARY COMMITTEE [BENCH – I (2019-2020)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]**

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

File No. PR- 27/14-DD/83/14-DC/666/17

In the matter of:

**The Chief Manager,
Oriental Bank of Commerce,
Ferozpur City**

.... Complainant

Vs

**CA. Varinder Mohan (M. No. 088286),
M/s. Anil Sood & Associates,
Mohalla Dharampura,
District Ferozpur,
Punjab**

.... Respondent

MEMBERS PRESENT:

**Shri Jugal Kishore Mohapatra, I.A.S. (Retd.), Government Nominee & Presiding Officer,
Ms. Rashmi Verma, I.A.S. (Retd.), Government Nominee,
CA. Dayaniwas Sharma, Member**

DATE OF FINAL HEARING/ORDER : 17.10.2019

PLACE OF FINAL HEARING/ORDER : ICAI, New Delhi

PARTIES PRESENT:

**Complainant : Not Present
Respondent : CA. Varinder Mohan
Counsel for Respondent : CA. C. V. Sajan**

BRIEF OF THE DISCIPLINARY PROCEEDINGS:-

1. The Committee noted that the first hearing in the case was fixed on 29th August, 2019 and notice of the said hearing was duly sent to the Complainant and the Respondent. However, the said hearing was adjourned in order to provide final opportunity to both the parties to the case.

1.1. On the day of next hearing held on 17th October, 2019, the Committee noted that neither the Complainant nor an authorized representative was present from the Complainant bank. The Respondent along with Counsel was present. The Committee noted that notice of hearing was duly sent to both the parties and last hearing was adjourned in order to provide final opportunity to both the Complainant and the Respondent. Since the Complainant was absent without any prior intimation, the Committee decided to proceed ahead with the hearing ex-parte the Complainant. The Respondent was put on oath. On being enquired from the Respondent as to whether he is aware of the charges leveled against him, the Respondent replied in affirmative and pleaded not guilty. The Counsel for the Respondent decided to make his submissions in the matter. Thereafter, he made his submissions on the charges. The Committee raised questions to the Respondent. After hearing submissions, the Committee decided to conclude the hearing.

CHARGES IN BRIEF AND FINDINGS

2. In respect of the background of the case, the Committee noted that the Respondent firm conducted the Stock audit of M.S. Food Pvt. Ltd, Ferozepur who were enjoying following facilities from the Complainant bank branch:-

- i. CC Limit – Rs.14.50 Crores
- ii. TL – Rs.00.16 Crores
- iii. PCL & FDBP Limits – Rs.07.50 Crore & Rs.2.00 Crore (Sub-limit of PCL)

The Complainant stated that duly verified list of Creditors/Debtors was submitted. The Respondent firm also did not point out in the stock audit report that company is misreporting the stock position in stock statements being submitted to the Complainant Bank and that other institutions have also claim over it. The Respondent also failed to point out those stocks to different institutions/hypothecated to financial institutions were stocked at same place without any demarcation. This has eventually led to disposing off the stocks unauthorized by the Company. The Respondent firm also failed to mention in the stock audit report that stock statements submitted to the Bank were vague and does not reflect the correct position of stock and debtors.

In respect of above charges, the Complainant has submitted following instances of irregularities / misreporting:-

- a) M.S. Foods Pvt. Ltd. was having stocks received from Pungrain & Punsup, the procurement and Storing agencies of Punjab State Government, for milling purpose. However, in the report submitted by the Respondent firm, the stock received for milling purpose was shown as **NIL** (the Respondent firm also did not mention /remark in their Stock Audit Report as on 31st October, 2012 that Company has defaulted with Pungrain & Punsup and that a notice for recovery of Rs. 11.50 crore (approx) has been issued against the Company. This resulted in the Punjab State Govt. Agencies had to lodge a FIR against the directors for misappropriating the stock kept for milling in the said Unit).
- b) M.S. Foods Pvt. Ltd were availing facility of advance against Trust Receipts from Axis Bank, but no such facility was reported in the stock audit report, (the Respondent firm have been the Statutory Auditors of M/s M.S. Foods Pvt. Ltd., who were well aware of the facts that Company is having account with Axis Bank since April, 2012 and the firm is routing of transactions with them. This resulted in that Company's CC account with the Complainant Bank becoming irregular due to diversion of funds and delay in servicing the instalments in Term Loan account with them).
- c) Besides above, the Respondent firm also did not inform and conceal the fact that their firm was also auditors of M/s M. S. Foods Pvt. Ltd.

2.1 The Complainant alleged that due to negligence / concealment of facts / non-compliance/ misreporting by the Respondent firm of its client, M.S. Foods Pvt. Ltd. defrauded the Bank to the tune of Rs.15.21 crore by way of misappropriation and disposal of stocks, hypothecated to the Bank, which could have been checked. The account was declared NPA as on 23rd January, 2013.

3. The Respondent through his written as well as verbal submissions made the following submission in support of his defence:-

3.1 The Respondent stated that he could not file his written statement at the stage of prima facie opinion as by that time, the CBI has begun its investigation. The Respondent stated that his firm name was dragged in the stock audit report in which his firm was not involved at all. The CBI has completed its enquiry and from the CBI report, it is clear that the Respondent

firm namely, M/s. Anil Sood & Associates, was not assigned stock audit of M.S. Foods Pvt. Ltd for the Financial Year 2012-13 by the Oriental Bank of Commerce, RO, Bhatinda. They have been assigned concurrent audit of M. S. Foods for the period 01.10.2012 to 30.09.2013. Neither appointment letter nor payment in respect to such stock audit was made by the bank to them. The account was declared as NPA on January 2013 by the bank. So, the CBI has concluded that there was no appointment of the Respondent as stock auditor of the bank.

3.2 The Respondent stated that there was a procedural error on the part of the Director (Discipline) when the Respondent said that he was not involved in the stock report then the Complainant should have been asked to file the appointment letter to know as to whether the Respondent firm had ever been appointed as stock auditor or not. Also, technically somebody who is appointed as concurrent auditor, he cannot have been stock auditor and concurrent auditor simultaneously. The Respondent stated that the documents have been fabricated by somebody which could be a handiwork of the Financial Consultant associated to the bank. However, he does not exactly know who is behind the forgery and fabrication in his name. All the people who were in the bank have been charge-sheeted by the CBI and the Respondent firm was not charge-sheeted by the CBI as the Respondent firm was not found involved in the matter.

4. After taking into accounts all the submissions and documents on record, the Committee submit its findings as under:-

4.1 The Committee noted that it was alleged that there was some discrepancies in the stock audit report issued by the Respondent for the period ended 31st October, 2012 and the Respondent was negligent in performing his duties as stock auditor. In respect of charge, it has been noted that the Complainant bank did not submit his submissions on the prima facie opinion. However, the Respondent has made his written defence as well as verbal submissions before the Committee. The Respondent brought on record documentary evidence such as CBI report to show that he was not appointed as stock auditor for the period under question. It has also been observed that bank officials of the bank were charge sheeted and the Respondent was not charge sheeted. Keeping in view the above findings as emerging from the CBI report and in absence of any contrary evidence to the said CBI's findings, the Committee decided to extend benefit of doubt to the Respondent in the above matter. Accordingly, the Committee decided to hold 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.

Conclusion

5. Thus, in the considered opinion of the Committee, the Respondent is **Not Guilty** of professional misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

5.1 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 Order for closure of this case against the Respondent.

Sd/-
(SHRI JUGAL KISHORE MOHAPATRA, I.A.S. (Retd.))
GOVERNMENT NOMINEE

Sd/-
(MS. RASHMI VERMA, I.A.S. (Retd.))
GOVERNMENT NOMINEE

Sd/-
(CA. DAYANIWAS SHARMA)
MEMBER

DATE: 03rd February, 2020

PLACE: New Delhi