



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS (AMENDMENT), ACT 2006
READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF
PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.

File No. : PR 170/2015-DD/168/2015-DC/631/2017

In the matter of:

Sh. Rajendra Pattnaik,
DIG of Police, EOW,
CID, CB, Odisha,
Qtr. No. D-127 BJB Nagar
Museum area, near Kalyan Square
Bhubaneswar- 75101

.....Complainant

Versus

CA. Kulamani Parida ... (M. No. 062003)
M/S Laldash & Co. (FRN 311147E)
Chartered Accountants,
Bhubaneswar- 751014

.....Respondent

Members Present:

CA. Naveen N D Gupta, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
CA. Shyam Lal Agarwal, Member

Date of Final Order: 30th November, 2018

Place of Final Order: Kolkata

1. That vide report dated 23rd October, 2018, the Disciplinary Committee was of the opinion that **CA. Kulamani Parida (M. No. 062003)** was GUILTY of Professional Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 with respect to the allegations relating to Certificate issued by the Respondent in relation to the Charge of Satisfaction in Form No.17 for M/s Srabani Construction Pvt. Ltd. (hereinafter referred to as the "**Company**") based on a scanned Letter of 'No Objection Certificate' purportedly issued by the State Bank of Travancore (herein after referred to as the "**Bank**").

2. That an action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 20th November 2018 was addressed to him



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thereby granting him an opportunity of being heard in person and/or to make a written representation before the Committee on 30th November 2018 at Kokata.

3. That the Respondent gave his written representation dated 28th November 2018. The Respondent in his representation, inter alia, stated that he had already sent his detailed written submission earlier that the complaint of DIG of POLICE, EOW, Bhubaneswar was false, untrue and baseless even as the Respondent was neither auditor nor financial advisor of the Company. He claimed that he had only Certified the charge satisfaction form with ROC, Cuttack, Odisha in good faith on the basis of NOC of Bank, Board Resolution of the Company, Authorization letter issued by the company and DSC provided by the Company, while exercising his professional due care and without interest. He further stated that while certifying the form for satisfaction of charges with the ROC, he had properly verified all the documents from the records of the Company which were necessary and there were sufficient evidences in this regards.

4. The Committee considered the written submissions made by the Respondent. The Committee noted that Respondent had issued the certificate wherein while certifying the Form No 17 he had also certified that he had verified the contents of form alongwith its attachments from the records of the Company and found them as true and correct. In other words, the Respondent had undertaken the responsibility to certify attachment to be true, the factual accuracy of which was stated to be verified from the books of the Company. It was noted that stated attachments included the purported letter of the Bank which was described in the form as 'letter of the charge holder' stating that the amount was satisfied, while the factual position was that the amount was outstanding to the extent of Rs.4,99,85,793.41/- The Committee noted that such certificate was a written confirmation of the accuracy of the facts stated therein and was not expected to involve any estimate or opinion. Accordingly, the Chartered Accountant who had issued the certificate was responsible for the factual accuracy as stated therein. The Committee noted that the Respondent had issued the certificate under question without verifying the relevant documents.

5. Thus upon overall consideration and looking in to the facts of the case, the Committee noted that the Respondent had not verified the facts with any documentary evidences from the records of the Company, such as proof of payment to the Bank through Bank Statements of the entity under question, direct confirmation from the Bank, etc. Hence, it was evident that the Respondent not only failed to carry out his professional assignment diligently but also the approach followed by the Respondent was extremely casual, as being a professional he was expected to adopt reasonable procedures to verify the contents of the form he undertook to certify digitally.



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6. The Committee was thus of the opinion that the misconduct on the part of the Respondent had been established, and keeping in view all the circumstances, the Committee was of the view that the professional misconduct on the part of the Respondent had resulted in the banking fraud therefore, a severe sentence was warranted in this case.

7. Accordingly, this Committee ordered the removal of name of Respondent **CA. Kulamani Parida (M. No. 062003)** from Register of Members for a period of **one year**.

Sd/-
[CA. Naveen N. D. Gupta]
Presiding Officer

Sd/-
[Smt. Anita Kapur]
Member (Govt. Nominee)

Sd/-
[CA. Shyam Lal Agarwal]
Member

Date : 30th November 2018

Place : Kolkata

Certified True Copy


Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate

The Institute of Chartered Accountants of India
ICAI Bhawan, I.P. Marg, New Delhi-110 002

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH-III (2018-19)]

[Constituted under section 21B of the Chartered Accountants Act, 1949]

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

PR 170/2015-DD/168/2015-DC/631/2017

In the matter of:

**Sh. Rajendra Pattnaik,
DIG of Police, EOW,
CID, CB, Odisha,
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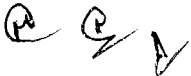
.....Respondent

Members Present:

**CA. Naveen N.D. Gupta, Presiding Officer
Mrs. Anita Kapur, IRS (Retd.), Member (Govt. Nominee)
CA. Shyam Lal Agarwal, Member
CA. Sanjay Kumar Agarwal, Member**

Date of Final Hearing : 27th August, 2018

Place of Final Hearing : Kolkata



Allegations of the Complainant:

1. **Sh. Rajendra Pattnaik, Bhubaneswar** (hereinafter referred to as the **“Complainant”**) has filed complaint in Form 'I' dated 29th July, 2015 against **CA. Kulamani Parida (M. No. 062003), M/S Laldash & Co. (FRN 311147E)** Bhubaneswar (hereinafter referred to as the **“Respondent”** and **“Respondent Firm”**). The Complainant in his complaint has alleged as under:-

1.1 The charge leveled against the Respondent is in relation to Form 17 certified by him which was filed on the basis of a 'No Objection Certificate'. It is reported that certain accused persons, submitted a scanned Letter of 'No Objection Certificate' purportedly issued by the State Bank of Travancore (herein after referred to as the **“Bank”**) stating that M/s Chhotaray Suppliers a partnership firm (hereinafter referred to as the Firm) has repaid the entire dues to the Bank (working Capital limit of Rs 500 lacs and Letter of Credit limit of Rs 100 lacs) in full and there is no outstanding from the Firm along with Charge Satisfaction in Form No.17 submitted to the ROC, Cuttack prior to closure of Loan Account. The said Form 17 was signed by one Sathua Laxmidhar as Chief Manager of the Bank and also certified by the Respondent, being a Chartered Accountant of the Firm as well as Srabani Construction Pvt. Ltd.

The Complainant has submitted that no such letter was issued and signed by the Chief Manager, State Bank of Travancore, Bhubaneswar Branch. The loan was not satisfied as on 12.06.2013 and when the matter of forgery and impersonation was brought to the notice of the alleged accused persons, they have admitted the forgery both orally and in writing. Thus, it is evident that the accused persons including the Respondent had connived with each other in siphoning off the public money with an intention to defraud the Bank.

1.2 The Complainant has informed that during investigation on examination of relevant documents, it is revealed that fake NOC was submitted to ROC, Cuttack and that Sibanarayan Chhotray Sathua and the Respondent fraudulently prepared a forged NOC and submitted the same alongwith charge satisfaction Form 17 before ROC, Cuttack.

1.3 The Respondent was arrested on 27.10.2014 and investigation was continuing.

PROCEEDINGS:

2.1 At the time of hearing held on 27th July 2018, the Committee noted that the Complainant alongwith with his Counsel were present during the hearing. However, the Respondent was neither present nor any request for adjournment was received from him. The Committee viewed that sufficient opportunity had been provided to the Respondent on earlier occasions to defend his case and no communication was received from the Respondent and decided to proceed ahead in the matter ex-parte Respondent.

The Committee noted that the matter was part heard in detail by the erstwhile Committee in January 2018 whereat authorized Counsel of the Respondent appeared to defend the case of the Respondent. After a detailed hearing in the matter, the then Committee had directed the Respondent to submit copy of his working papers on the basis of which he was convinced that the bank loan facility was repaid to the bank, the documents verified thereon for certifying alleged Form 17. But till the extant date of hearing, the Respondent had not complied with the said directions. The Committee viewed that since the charges made against the Respondent were grave; last opportunity be afforded to the Respondent to defend his case. Accordingly, the hearing in the matter was part-heard and adjourned.

2.2 At the time of next hearing fixed on 27th August 2018, the Committee noted that neither the Complainant nor the Respondent was present in the matter. However, the Complainant Department vide e-mail dated 24th August, 2018 had informed that due to pre-engagement of their Investigating Officer and Counsel in some other important matters, it would not be possible to appear in person before the Committee. Along with the said letter, the Complainant had also enclosed copies of certain documents for the perusal of the Committee which were duly sent to the Respondent through e-mail.

As regard the Respondent, the Committee noted that he was neither present nor any communication was received from him. It was noted that at the last hearing, the Committee had afforded him the last opportunity to defend his case which was duly communicated to him. Accordingly, the Committee decided to proceed ex-parte in the matter as the Committee

observed that despite fair opportunity being provided to the Respondent, he chose not to appear before the Committee and also evaded co-operation with the Committee. The Committee after considering all the documents available on record concluded the hearing in the case.

Findings of the Committee:

3. The charge leveled against the Respondent is that he, in connivance with alleged accused persons submitted 'No Objection Certificate' purportedly issued by the Bank stating that the Firm has repaid the entire dues to the Bank (working Capital limit of Rs 500 lacs and Letter of Credit limit of Rs 100 lacs) in full and there is no outstanding from the Firm along with Charge Satisfaction in Form No.17 which was certified by him. Such Form was submitted to the ROC, Cuttack prior to closure of Loan Account.

4. The Respondent in his Written Statement submitted that he has neither prepared the fake NOC issued by the Chief Manager of the Bank, nor the Charge Satisfaction in Form No.17. He has been falsely implicated in the case.

5. The Complainant department has submitted before the Committee vide their report dated nil submitted to the Disciplinary Committee on 27th July 2018 that during interrogation of Respondent, he admitted that on 10.6.2013, Mr. Sibanarayana Chhotray of M/s Srabani Construction Pvt. Ltd. had given him a scanned copy of NOC given by State Bank of Travancore and other connected documents of the said Company for filing of form No. 17 before ROC, Cuttack. Accordingly, the Respondent submitted Form 17 before the ROC for satisfaction of charge over the mortgage property but during filing of Form 17 he had not verified from the concerned bank regarding issue of NOC in favor of M/s Chhotray Supplier. The Department further submitted that during interrogation of Mr. Laxmidhar Sathua (who has verified digitally signed the said Form 17 for charge satisfaction as Chief Manager of the Bank) has disclosed that he was working under Mr. Sibanarayan Chhotray and Mrs. Swapna Chhotray as an accountant during the years 2011-2014. His digital Signature was made as per advice of the Respondent for filing of ITR for the Assessment Year 2012-2013 and were with the Respondent who misused his DSC without his consent. During Investigation, it was

revealed that Mr Sibnarayan Chhotray and Mrs. Swapna Chhotray connived with the Respondent and Mr. Laxmidhar Sathua for creating fake NOC in favour of M/s Chhotray Supplier & M/s Srabani Constructions.

6. The Committee noted in the instant complaint, the charge against the Respondent relates to filing of Form 17 for satisfaction of the charge based on the fabricated NOC which shows that all the outstanding dues of his client have been settled in full though as on that date the outstanding loan amounts to Rs. 4,99,85,793.41 payable to the Bank. The Committee in this regard noted the Respondent has digitally certified the said Form No. 17 (C-4 to C-5). In the said form the Respondent has digitally certified Form No.17 stating that:

"... I have verified the above particulars (including the attachments form the records and found them to be true and correct..... (C-6)."

It is noted that the stated attachments included the purported letter of the State Bank of Travancore which is described in Form as 'letter of the charge holder' stating that the amount has been satisfied.

7. In view of the above, the Committee noted that the Respondent has issued the certificate wherein he has certified that the contents of Form No 17 alongwith its attachments were verified by him from the records of the Company which was found by him as true and correct. In other words, the Respondent has undertaken the responsibility of attachment to be true, the factual accuracy which is stated to be verified from the books of the Company. The Committee noted that such certificate was a written confirmation of the accuracy of the facts stated therein and is not expected to involve any estimate or opinion. Accordingly, the Chartered Accountant who had issued the certificate was responsible for the factual accuracy as stated therein. The Committee noted that the Respondent has issued the certificate under question without verifying the relevant documents. The Committee provided fair opportunities to the Respondent to produce before it the documents verified by it on the basis of which said Form was issued. However, the Respondent failed to produce any. Accordingly, it is also clear that the Respondent had not verified the facts with any documentary evidences from the records of the Company such as proof of payment to the Bank through Bank Statements of the entity under question, direct confirmation from the Bank, etc. Hence, it is evident that

(M) (P)
Shri Rajendra Patnaik, DIG of Police, EOW, CIB, CB, Odisha -vs- CA. Kulamani Parida(M.No 062003), Bhubaneswar

the Respondent was negligent in carrying out his professional assignment diligently. The Committee further noted that the approach followed by the Respondent which was extremely casual is not acceptable as being a professional he was expected to adopt reasonable procedures to verify the contents of the form he had undertaken to certify digitally. Accordingly the Committee held that the Respondent is guilty of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 in respect of the aforementioned allegation.

Conclusion

8. Thus, in conclusion, in the opinion of the Committee, the Respondent is GUILTY of Professional Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

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Sd/-
(CA. Naveen N.D. Gupta)
Presiding Officer

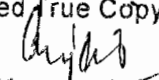
Sd/-
(Mrs. Anita Kapur)
Member (Govt. Nominee)

Sd/-
(CA. Shyam Lal Agarwal)
Member

Sd/-
(CA. Sanjay Kumar Agarwal)
Member

Date : 23rd October, 2018

Place : New Delhi

Certified True Copy

Ajay Kumar Jain
Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India
ICAI Bhawan, I.P. Marg, New Delhi-110 002