

CONFIDENTIAL

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

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

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

File no. : PPR/P/1/15-DD/67/INF/15-DC/542/2017

In the matter of :

CA. Darshan B. Patel (M.No.108350),
Partner of M/s. B.J. Patel & J.L. Shah (FRN. No. 104148W)

505, Sears Tower
Gulbai Tekra,
Panchawati
Ahmedabad-380006

.....Respondent

Members Present:

CA. Naveen N.D. Gupta, Presiding Officer
Ms. Anita Kapur, Member (Govt. Nominee)
Shri Ajay Mittal, IAS (Retd.), Member (Govt. Nominee)
CA. Shyam Lal Agarwal, Member

Date of Final Hearing: 20th November, 2018

Place of Final Hearing: Mumbai

Parties Present:-

- (i) CA. Darshan B Patel – Respondent

Allegations of the DGM, RBI:

1. In the present case, allegations were raised by the Deputy General Manager, RBI that M/s. B.J. Patel & J.L. Shah (FRN. No. 104148W) (hereinafter referred to

as the 'Respondent Firm') was appointed as Concurrent Auditors of RBI Ahmedabad office for the period from 1st October, 2012 to 30th June, 2013 as per the Copy of the appointment order (A-6 to A-9), and during the year 2012-13, wrong capitalization of an asset (lift), at a stage where the actual construction and installation was not complete, was done and depreciation was charged on the same. It was alleged that the Respondent firm, the then Concurrent Auditors of the Informant checked the payment of running account bill in respect of the lift and also certified the depreciation figures. However, the Respondent did not point out the wrong capitalization of asset. As per the Informant, it was not in conformity with the accounting systems and procedures and the said irregularity was reported by the Informant's Statutory Auditors, M/s. Haribhakti & Co., during the statutory audit of the Informant's Office vide common irregularities observed in Annual closing of Accounts, wherein premature capitalizations of asset was mentioned as one of the common irregularities in the Annex 'E' (A-32).

Proceedings:-

2. At the time of hearing on 25th April 2018, the Committee noted that the Respondent, along with his Counsel, was present in person to appear before the Committee. The Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wished the charges to be read out or these could be taken as read. The Respondent stated before the Committee that he was aware of the allegations raised against him and the same may be taken as read. On being asked, as to whether he pleaded guilty, he replied that he did not plead guilty and would opt to defend his case.

Thereafter, the Counsel for the Respondent made his submission before the Committee. The Respondent was examined by the Committee on the submissions made by him. Then the Counsel for the Respondent made his final submissions in the matter. Based on the documents available on record and after considering the oral and written submissions made by the Respondent before it, the Committee decided that final decision of conclusion of the hearing or



otherwise was subject to receipt of information sought as detailed below and its examination thereof:

- (i) Copy of the Concurrent Audit Report of the Respondent for the period October, 2012 to June, 2013;
- (ii) Exhibiting materiality of the matter with respect to Estate Department of Ahmedabad office of Reserve Bank of India, Ahmedabad branch;
- (iii) To submit whether any GL code was then available for classification of expenditure relating to the Capital Work in Progress (CWIP);
- (iv) Submission on Clause (8) of the appointment letter as to whether any reporting on deficiency was to be made by the Respondent during his said assignment.
- (v) Copy of expression of interest by the Respondent for the said audit assignments including the fees for the same.

3. At the time of hearing on 20th November 2018, the Committee noted that the Respondent was present. The Committee noted that the documents/information as sought from the Respondent had been received on record. The Committee thereafter informed the Respondent that the composition of the Committee had undergone a change; and therefore an option of de-novo hearing in the matter was available to him. The Respondent stated that since substantial defense both in writing and orally were submitted by him at the previous hearing, therefore, the hearing in the matter might be proceeded from the stage where it was left. The Committee agreed to the same and after considering the facts and circumstances, the Committee directed the Respondent to submit a chart showing the details of bank branch audit assignments conducted by the Respondent firm from the year 2010 to 2018 and also to confirm whether any action was taken by the RBI against the Respondent firm in view of the Complaint filed against him in the matter. With this the hearing in the matter was concluded.



Findings of the Committee:

4. On perusal of papers on record, it was noted that the Respondent had placed on record, his written submission vide his letter dated 21st November, 2018 in pursuance to the directions given by the Committee. The Committee noted that the charge alleged by the Informant against the Respondent was that he had failed to report about wrong capitalization in respect of an asset (lift), whose actual construction and installation was not complete, and charging of depreciation thereon.

5. It was noted that the Respondent had submitted in his written statement that being concurrent auditors, the wrong grouping done by the RBI officer could not be pointed out as the Voucher produced before him on 22.3.2013 was showing period of completion of 36 weeks from 9th April, 2012, when the stated date of completion had already lapsed. Since neither in the internal process sheet nor on the approval note, the fact that said asset was not installed or not put to use was mentioned, it was sufficient ground for him to assume that the classification of the asset was correct. The Respondent also submitted that from the scope of his engagement letter, it could be noted that the firm, in capacity of the concurrent auditor, was not responsible for physical verification of asset. Accordingly, he had verified the computation of depreciation on the basis of assets ledger accounts. It was further contended that at that point of time RBI Ahmedabad Office was not maintaining any separate GL code for assets under construction. Thus, the said error of wrong classification could not be identified as the same Code was used to signify the asset as well as asset under construction. As a result, calculation of depreciation on the wrongly grouped assets was consequential in nature. As regard the query of the Committee if any action was taken by RBI against the Respondent's Firm, vide his letter dated 21st November 2018, he submitted that his firm had not received any letter from RBI office informing about any action being taken against it. Moreover, vide e-mail dated 11.08.2016, RBI Ahmedabad, invited his firm to file quotation/bid for the concurrent audit of RBI, for the period 1.10.2016 to 30.6.2017.



Further, he also informed about the details of bank branch audit assigned to the Respondent firm from the year 2010 to 2018 as below:

Financial year of Audit	Name of Bank	Name of branches audited
2010-2011	Union Bank of India	1. Vastrapur Branch 2. C G Road Branch 3. Ashram Road Branch
2011-2012	Union Bank of India	1. Deesa Branch 2. Ahmedabad- Dr S R Marg 3. Ahmedabad – Retail Asset Branch
Cooling Period		
2016-2017	Union Bank of India	1. Junagadh Branch 2. Asset Recovery Branch, Ahmedabad.
2017-2018	Union Bank of India	1. Palod Branch, Surat 2. Race Course Circle, Rajkot 3. Deesa Branch.

6. The Committee noted that in the present case, the allegation was regarding incorrect capitalization by the Respondent of the asset (lift) in use, as a result of which the depreciation was wrongly charged on the same. In this regard, it was noted from the perusal of documents produced on record that there was an office note dated 15th March, 2013 which provided the details of supplier's bills wherein said period of 36 weeks was mentioned. The said note was prepared for releasing the payment and nowhere it was mentioned that the asset was under construction or complete. Further from vouchers dated 22nd March which were presented for audit on 25th March, 2013 (A10-A14), it was noted that it was debited to account "Electrical Installations & Office Equipments-Fixed Office". Also such misclassification the vouchers for supplier's bill were dated 24th December 2012 regarding were as evident from date of seal, it was noted that it was debited to account was being rectified by changes in account head on 4th April, 2013 (A-27) but again the said account was being classified as Dead Stock – Electrical Installation & Other Office Equipment. It was viewed that such head signifies obsolete or slow moving stock and not an asset under construction. In other words, usage of such head signifies that there was no separate head to

classify asset under construction (A27-A29) by RBI. It was noted that as per the annual report of RBI for the year ended 30th June 2013, the total amount of depreciation charged was Rs.239.02 Crores whereas the amount of deprecation which was wrongly charged due to wrong selection of code by RBI Officer was merely Rs.95,315/- which was only 0.33% of the total amount of depreciation and not material while looking into the total size of the deprecation charged at the head office level. Such proportion also signifies the immaterial impact of capitalization on total size of assets.

7. The Committee was thus of the view that it was non-availability of proper code to classify the asset that the Respondent had failed to report on wrongly capitalization due to which only a meager amount of Rs.95,315/- was charged as excess deprivation. It had an immaterial impact on the total volume of RBI Financials. Hence such failure on the part of the Respondent could not be considered as sufficient ground to hold him responsible for failure to exercise due diligence while conducting his professional duties.

Conclusion:

8. Thus, in conclusion, in the opinion of the Committee, the Respondent is held **NOT GUILTY** of professional and/or other misconduct falling within the meaning of Clauses (7) & (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

9. The Committee accordingly passed order for closure of this case against the Respondent.



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

Sd/-
(Shri Ajay Mittal, IAS (Retd.)
Member (Govt. Nominee)

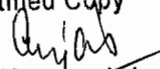
Date: 29th January, 2019

Place: New Delhi

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

Sd/-
(CA. Shyam Lal Agarwal)
Member

Certified Copy


Ajay Kumar Jain
Deputy Secretary
Disciplinary Directorate