



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

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.

File No. : PR/219/17/DD/216/17-DC/995/2019

In the matter of:

**Shri TN Chandrashekhar Marar,
Trikkampurathu, Paingarappily PO
Muanthuruthy
Ernakulum- 682 314(Kerala)**

..... Complainant

Versus

**CA. Ramachandran KK (M. No 021175),
39/2088 C, Kripa,
Warriam Road,
Ernakulum,
Kochi- 682 016**

..... Respondent

Members present:

**CA. Atul Kumar Gupta, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
Shri Ajay Mittal, Member (Govt. Nominee)
CA. Chandrashekhar Vasant Chitale, Member
CA. Manu Agrawal, Member**

**Date of Final Hearing: 20th August 2020 through Video Conferencing
Place of Hearing: Gurugram**

1. Vide report dated 10th February 2020 (**copy enclosed**), the Disciplinary Committee was of the opinion that **CA. Ramachandran KK (M. No 021175)** was **GUILTY** of Professional Misconduct falling within the meaning of Clause (7) and (8) of Part I, Second Schedule to the Chartered Accountants Act, 1949 with respect to audit of financial statements of the society named 'Sree Mattappillikavu Bhagavathy Seva Sangham' (hereinafter referred to as the "**New Society**") which was registered in 2012 separately from already existing society named 'Bhagavathy Seva Sangham' (hereinafter referred to as the "**erstwhile Society**") registered in 1985. The specific allegations against the Respondent are:

- (i) Despite there being an agreement that between the trustee of the temple and that of the Society that accounts of the temple and that of the Society to be kept separately, the accounts of the new society reflected the asset and income of the erstwhile Society.

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(ii) Though the New Society was registered only on 21.11.2012, its final accounts dated back to 01.09.2012. Thus, the final accounts of the New Society were audited from a date when the Society was legally not in existence.

It is noted that the Respondent is guilty under Clause (7) and (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949 as per which the Respondent:

“(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties”,
and

“(8) fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion;”

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 7th August 2020 and 19th August 2020 was addressed to him thereby granting him an opportunity of being heard in person and/or to make a written representation before the Committee. While, on 17th August 2020, when the Respondent submitted to have appeared before the Committee from a location other than his personal location, the Committee deferred hearing in the matter. Thereafter, the Respondent appeared before the Committee on 20th August 2020 through video conferencing.

3. At the time of hearing, the Committee noted that the Respondent appeared before it from his personal location and inter-alia submitted that the old society was faced with legal impediments due to which it was declared as defunct by the Registrar of Societies and during this time the old society decided to form a new society to continue the activities with an intention to takeover and manage the affairs of the temple and the properties belonging to the Society. He further submitted that his conduct was in consonance of SA-620, “Using the work of Auditors’ Expert” when he placed his reliance on the legal opinion provided to him by the Society wherein it was opined that there was no infirmity in treating the auditorium as part of the new Society.

4. The Committee considered the oral as well as the written submissions made by the Respondent vide his letter dated 11th August 2020 and noted that the Respondent had failed to report qualifications regarding inclusion of assets and liabilities of the erstwhile Society in the financial statements of the New Society despite no such item being transferred legally to it. It is noted from his submissions that he considered both the societies as one. Further, it is viewed that the audit report was submitted under the requirements of Income Tax Act, which was applicable from the date when the Society came into existence i.e. when it was registered. Hence, there was failure

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on part of the Respondent not only in exercising due diligence but also in collecting sufficient audit evidence to express his opinion in audit report.

5. The Committee was thus of the opinion that the misconduct on the part of the Respondent had been established within the meaning of clause (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered the removal of name of Respondent **CA. Ramachandran KK, (M. No 021175)** from the Register of Members for a period of 1 (one) Month along with imposing a fine of Rs. 25000/- (Rupees Twenty Five Thousand Only).

sd/-
[CA. Atul Kumar Gupta]
Presiding Officer

sd/-
[Smt. Anita Kapur]
Member, (Govt. Nominee)
(approved & confirmed through e-mail)

sd/-
[Shri Ajay Mittal]
Member, (Govt. Nominee)
(approved & confirmed through e-mail)

sd/-
[CA. Chandrashekhar Vasant Chitale]
Member
(approved & confirmed through e-mail)

sd/-
[CA. Manu Agrawal]
Member
(approved & confirmed through e-mail)

Date: 20th August 2020 through Video Conferencing

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Certified to be True Copy

Mohita Khanna

(Mohita Khanna)
Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2019-2020)]

[Constituted under Section 21B of the Chartered Accountants (Amendment) 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.

File No. : [PR/219/17/DD/216/17-DC/995/2019]

In the matter of:

**Shri TN Chandrashekhar Marar,
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..... Complainant

Versus

**CA. Ramachandran KK, (M. No 021175)
39/2088 C, Kripa,
Warriam Road,
Ernakulum,
Kochi- 682 016**

..... Respondent

MEMBERS PRESENT:

CA. Atul Kumar Gupta, Presiding Officer

CA. Amarjit Chopra, Member (Govt. Nominee)

CA. Chandrasekhar Vasant Chitale, Member

DATE OF FINAL HEARING : 15.10.2019

PLACE OF FINAL HEARING : ICAI Bhawan, Chennai

PARTIES PRESENT

Counsel for Complainant : Mr. John Joseph, Advocate

Respondent : CA. Ramachandran KK

Counsel for Respondent : Mr. Anil D. Nair, Advocate

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Charges in Brief:-

1. The Committee noted that in the Prima-Facie Opinion formed by Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Respondent is guilty under Clause (7) and (8) of Part I of the Second Schedule of Chartered Accountant Act 1949. The aforesaid Clause (7) of the Second Schedule states as under :-

"(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;"

And Clause (8) of the Second Schedule states as under :-

"(8) fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion;"

2. The crux of the present case is that there was a society named Bhagavathy Seva Sangham was formed / registered in 1985 by the few devotees (Trustee) to administer the temple namely Mattappillikavu Bhagavathy temple which acquired 32% of the land and constructed an auditorium alongwith holding of number of assets and having the income therefrom. Later on, the dispute arose between the trustee and the group of trustee formed/registered a new society named as "Sree Mattappillikavu Bhagavathy Seva Sangham" in year 2012 and prepared the financial statements of the new society. These accounts of new society reflected the asset and income of the erstwhile society also. Accounts of the new society were audited by the Respondent in gross negligent manner.

3. There are three allegations stated as under:-

- I. In the first allegation, it is alleged by the Complainant that an agreement was made between the trustee of the temple and the Society by which the accounts of the temple and the accounts of the society are to be kept separately. The accounts of the temple shall be

submitted to the trustee whereas the accounts of the Society need not be submitted to the trustee.

- II. In the second allegation, the Complainant has alleged that in spite of the fact that the illegal Society was registered only on 21.11.2012, its final accounts date back to 01.09.2012. It is not clear how a Chartered Accountant can prepare the final accounts of a Society from a date on which the Society was not legally in existence.
- III. In the third allegation, it is alleged that the Accounts of the Society are audited without truthfulness and the required professional integrity. The audited accounts do not reflect the true state of the accounts.

Brief facts of the Proceedings:

4. On the day of hearing i.e. 15/10/2019, the Committee noted that Counsel for the Complainant was present; on other side, the Respondent alongwith his Counsel appeared before the Committee. The Respondent was put on oath. In the presence of the Complainant and with consent of Respondent, the charges were taken as read. On being asked to the Respondent whether he pleads guilty, he replied in negative. Thereafter, the Committee sought whether he wished to proceed with his defence. Thereafter, the Respondent placed his defence. After considering all papers available on record, the Committee decided to conclude the matter.

Findings of the Committee

5. The Committee enquired specifically on the charge from the Respondent about the asset of the erstwhile society being reflected as part of the financial statement of the new society alongwith income therefrom. The Respondent submitted that the year 2012, a question being raised by him as well. But after being supplied a legal opinion, he, in his considered opinion, accepted the contention of the Management Committee of new society i.e. "Sree Mattappillikavu Bhagavathy Seva Sangham". Accordingly, the Respondent did not object/comment in his audit report on shifting of assets of the erstwhile society alongwith income

therefrom and inclusion of transaction of the erstwhile society into the accounts of the society being audited by him.

6. The Respondent submits the brief background while enquired about the specific question that whether all the trustee of the erstwhile society is the part of the new society? Replying to the same the Respondent submits that the old society which was formed in year 1985 have not filed any audited statements or annual return with the District Registrar. The District Registrar has struck the name and declared as defunct. In between the old society has purchased some land properties adjacent the temple and constructed an auditorium. The said transformation took place without any break. So, after declaring it is as defunct, a new society with majority members of the old society was registered and continuing the activities of the temple without any interruption including the auditorium assets, liabilities and everything including land and building, old ornaments and various utensils etc.
7. The Committee wanted to know that whether the transfer of such asset from erstwhile society to the new society is being registered with the Registrar of Properties along with payment of stamp duty. The Respondent submits that the new society has first time appointed him as the auditor of that society. While finalising the accounts he noticed that the assets including land and building, old ornaments and various utensils etc. were existing in the temple which were not brought in the books of accounts.
8. The Respondent further submits that he had asked the new management to get an expert opinion on the matter before finalising and taking the assets into the accounts of the new society. The management have obtained a legal opinion from an advocate, so considering the continuity of the assets activities and all that it has been obtained that this can be brought into the accounts of the new society and accordingly the new officers of the new society has given me a list of enter assets with valuation. Accordingly this has been brought to the accounts.
9. The Committee noted that the same set of books of accounts was produced with the same set of minute's books which were about 10 years old and these set of

books are continuing as if there is no change between the old and the new. The Respondent further submitted that there is no transfer deed and no payment of stamp duty on such transfer of asset from the erstwhile to the new society.

10. The Respondent submitted that there was a majority of trustee of old trust who formed the new society and it is small group of trustee of old trust which is not the part of the new society are only airing their grievances and making such kind of false allegations.
11. With regards to the second allegation, the Respondent submits that in PFO the benefit of doubt is being extended to him by the Director Discipline and he has been absolved from this particular charge. The Committee did not agree with the findings regarding this charge and further enquired that how the Respondent had produced the books of accounts on 1st September, 2012 while the new Society was registered on 21st November, 2012. And how working papers and records were made available to him? The Respondent failed to reply these specific questions raised by the Committee.
12. The Committee is of the opinion that the Respondent had prepared accounts of new Society knowing that this society was not even in existence at that point of time which shows gross negligence on the part of the Respondent and also attracts professional misconduct wherein the Respondent fails to obtain sufficient information which was mandatory for him to express his opinion. Therefore the Committee held him guilty on his charge.
13. The Committee noted that with regards to the third charge regarding it is alleged that the accounts of the Society are audited without truthfulness and the required professional integrity. The Committee finds no merit in the charge as Complainant fails to substantiate the same with corroborative evidence. The committee extended benefit of doubt regarding this charge.
14. The Committee noted that the Respondent was failed to Report various qualifications regarding assets and liabilities which was transferred from old society to the new society. The Respondent considered both societies as one and therefore the transfer of asset was happened. And based on that the

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Respondent submitted his audit report which shows gross-negligence on his part which was without having the legal title and without having the transfer deed. The Committee also points out that in case when old society gets defunct there are two options either it will vest with the society having the similar objects or it will vest with the Government. Therefore in the present case regarding transfer of old society to the new society the process was to be mandatorily followed. The Respondent is grossly negligent in the conduct and at the same time fails to perform his professional duties diligently.

Conclusion

15. Thus, the Committee while looking into the above facts of the case found that there is a gross negligence on the part of the Respondent that neither did he collate the sufficient information which is necessary for expression of opinion nor he exercised his due diligence. He is grossly negligent in the conduct of his professional duty which resulted not only in incorrect reporting but also the loss to the exchequer. In terms of the reasoning as above and in the considered opinion of the Committee, the Respondent is held **GUILTY** in under Clause (7) and Clause (8) of Part I of Second Schedule to the Chartered Accountant Act, 1949.


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

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. CHANDRASEKHAR VASANT CHITALE)
MEMBER

DATE: 10/02/2020
PLACE: NEW DELHI

Certified True Copy


Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate

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