



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 215/14-DD/232/2014-DC/792/2018]

In the matter of :

Mrs. Sundarambal Vishwanathan,
70/8, Rameshwaram Road ,
T.Nagar,
CHENNAI - 600 017

....Complainant

Versus

CA.S. Srivatsan (M.No. 021267)
No.36 (Old No. A-18),
80 Feet Road, Main Road, Anna Nagar
TIRUCHIRAPALLI - 620 017

....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: 17th August 2020 through Video Conferencing
Place of Hearing: Gurugram

Party Present:

CA.S. Srivatsan (M.No. 021267) – Respondent

1. Vide report dated 10th February 2020 (**copy enclosed**) the Disciplinary Committee was of the opinion that **CA. S. Srivatsan (M.No. 021267)** was **GUILTY** of Professional Misconduct falling within the meaning of Clause (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949 with respect to audit of Sri Kanchi Kamakoti Sanathana Dharma Education and Health Trust (herein after referred to as the 'Trust') for the financial years 2007-2008 to 2011-2012.

The two specific allegations against the Respondent in respect to the said audit that have been upheld by the Committee are:

- That the Respondent had not checked as to whether accounts submitted before him were approved by the trustee.
- That The Respondent had not appended notes to accounts with the financial statement and not complied with mandatory AASs/SAs as applicable.

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

"does not exercise due diligence, or is grossly negligent in the conduct of his professional duties."

B/M



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2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 7th 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 on 17th August 2020 through video conferencing.

3. The Respondent appeared before the Committee on 17th August 2020 through video conferencing from his personal location, and made oral submissions. With respect to appending notes to accounts, the Respondent, inter-alia, stated that the audit report was furnished in compliance with the provisions of the Income Tax Act u/s 12A of the Act wherein the audit report was furnished in prescribed Form 10 B, which is a statutory form. He, further, stated that since it was a statutory form, he was under bonafide impression that no further Appendix were required except those prescribed which were duly furnished. He further stated that a note on non-provision of depreciation and the reasons thereof had been duly furnished beneath Fixed Assets Schedule to the Balance Sheet which was in compliance to the disclosure requirements to be made in notes to accounts.

4. The Committee noted that although the Respondent denied having done the audit but thereafter admitted when he was confronted with documentary evidence that he conducted the audit and furnished the audit report in compliance with the provisions of Section 12 of the Income Tax Act 1961 in prescribed form 10B. The Committee further reviewed the financial statements attested by the Respondent and noted that firstly there was no signature of the trustee on the financial statement so audited and the Respondent alone had signed on the same and secondly, notes to accounts were not appended thus upholding the view that the Respondent before signing the Balance Sheet failed to ensure that the same was approved by the Trustees. It was accordingly noted that the Respondent had verified the financials which were not undertaken to be correct by the Trustees. It was, accordingly, viewed that mandatory Auditing and Assurance Standards (applicable upto financial year 2007-2008) and Standards on Auditing (applicable from financial year 2008-2009 onwards) were not complied with by the Respondent as envisaged in Paragraph 1.4 read with Paragraph 5.3 of the 'Guidance Note on Audit of Public Charitable Institutions'

5. The Committee was thus of the opinion that the misconduct on the part of the Respondent has been held and established within the meaning of Clause (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered that the Respondent be reprimanded and a fine of Rs. 25,000/- be imposed upon the Respondent.

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

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

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

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

Date : 17th 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 215/14-DD/232/2014-DC/792/2018]

In the matter of:

**Mrs. Sundarambal Vishwanathan,
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TIRUCHIRAPALLI - 620 017**

.....Respondent

MEMBERS PRESENT:

**CA. Atul Kumar Gupta, Presiding Officer
CA. Amarjit Chopra, Government Nominee
CA. Rajendra Kumar P, Member
CA. Chandrashekhar V. Chitale, Member**

DATE OF FINAL HEARING : 10.12.2019

PLACE OF FINAL HEARING : ICAI Bhawan, Chennai

PARTIES PRESENT:

Complainant :Not Present

Respondent : CA. S. Srivatsan

Counsel for Respondent : CA. R.G. Rajan

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) of Part I Second Schedule of Chartered Accountant Act 1949 which states that:-

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

2. In this case the complainant who is the trustee of Sri Kanchi Kamakoti Sanathana Dharma Education and Health Trust alleged for the malpractices and irregularities in the financial affairs of the Trust and not reported by the Respondent who is the auditor of the said Trust. There are the two specific allegations on the Respondent apart from a general allegation of not pointing out the financial irregularities which are as follows:-
 - i. The Respondent had not checked as to whether accounts submitted before him were approved by the trustee
 - ii. The Respondent has not appended notes to accounts with the financial statement which is required and mandatory as per the standard of auditing or as per the auditing standards.

Brief facts of the Proceedings:

3. On the day of hearing i.e. 10/12/2019, the Committee noted that the Respondent along-with Counsel was present and appeared before it. The office apprised the Committee that the Counsel for the Complainant has sought adjournment as he is busy with some other Court case. The Committee noted that the earlier hearing dated 05/06/2019 had been adjourned at the request of the Complainant. Hence, the Committee rejected said request and decided to proceed ex-parte the Complainant based upon merit of the case and papers/submissions on record.

The Respondent was put on oath and stated that he is aware of the charges. On being enquired by the Committee, the Respondent pleaded not guilty and wished to defend the charges.



The Committee directed him to make his submissions. The Counsel for the Respondent made final submissions to defend the charges and submitted certain documents before the Committee.

After recording the submissions of the Respondent, the Committee concluded the hearing in caption case.

Findings of the Committee

4. On the matter in question, the Committee enquired from the Respondent who signed the audit report of the trust whereas the Respondent denied that he ever conducted the audit of the said Trust i.e. Sri Kanchi Kamakoti Sanathana Dharma Education and Health Trust and was merely acting as consultant and advisor for tax related matters and therefore raising the invoice for the same purpose only. Accordingly, he pleaded before the Committee that he should be exonerated from all the charges levelled by the Complainant against him.
5. The Committee reviewed all the documents submitted by the Complainant and found the Form 10B (annexed as 'C-5, C-15, C-25, C-41 and C-51' of Prima-Facie Opinion) which is an audit report of the abovesaid Trust claiming exemption under Section 12A of Income Tax Act 1961 which is duly signed by the Respondent. Accordingly, it is proved beyond doubt that the Respondent has conducted the audit of the said Trust.
6. The Committee also reviewed the financial statements attested by the Respondent and found merit in the allegation of the Complainant wherein there was no signature of the trustee on the financial statement so audited by the Respondent.
7. The Committee also noted that the Respondent was the Auditor of Trust for financial years 2007-2008 to 2011-2012 and has not appended notes to accounts and has not complied with mandatory Auditing and Assurance Standards (applicable upto financial year 2007-2008) and Standards on Auditing which were applicable for financial year 2008-2009 onward. The Committee referred the 'Para 1.4' of the guidance note of audit related to Public Charitable Institution under the Income Tax Act, 1961 which states as under:-

"The nature of audit required under section 12A(1)(b) is similar to that of audit of general purpose financial statements. Hence the accountant has to adopt the same procedures of audit

as prescribed under Auditing and Assurance Standards" AASs while certifying true and fair view shown by financial statements".

8. The Committee noted 'Para 5.3' of the Guidance Note related to Accountants' responsibility which states as under:-

"The accountant should note that the AASs issued by the ICAI would be applicable to the audit under section 12A(1)(b)".

Hence, as per the guidance note it is clear that auditing and assurance standards are applicable to the Trust also.

Conclusion

9. In view of the above findings, the Committee has noted the negligence on the part of the Respondent in not appending notes to accounts and not complying with mandatory Auditing and Assurance Standards and Guidance Note of ICAI. Accordingly, the Committee holds the Respondent **GUILTY** under Clause (7) of the Part I of Second Schedule of Chartered Accountant Act 1949.

Sd/-

(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

Sd/-

(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-

(CA. RAJENDRA KUMAR P)
MEMBER

Sd/-

(CA. CHANDRASEKHAR V. CHITALE)
MEMBER

DATE : 10-02-2020
PLACE : NEW DELHI

Certified True Copy

VIJAYANTI JAIN
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