



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/211-B/2015/DD/30/17/DC/747/2018

In the matter of :

Shri L.S. Padmakumar
Superintendent of Police,
Central Bureau of Investigation,
Anti Corruption Branch,
Shastri Bhawan, Haddows Road,
CHENNAI -600 006

.....Complainant

Versus

CA. A. Ganesh Babu (M.No. 208892)
No.18, Bishop Road,
Puthur,
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. A. Ganesh Babu (M.No. 208892) – Respondent

1. Vide report dated 10th February 2020 (copy enclosed) the Disciplinary Committee was of the opinion that **CA. A. Ganesh Babu (M.No. 208892)** was **GUILTY** of Professional Misconduct falling within the meaning of Clause (3) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 with respect to certification of sales and projected figures with inflated amounts in respect of various firms without verification of underlying documents on the basis of which Indian Bank sanctioned Secured Overdraft facilities to someone named Sh. R. Rajkumar during the F.Y. 2008-09 to 2010-11.
2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 6th 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 wherein he had inter-alia stated that he certified the projections based on previous two years performance only and he denied that any wrongful loss had

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occurred to the Bank by certifying the said projections since the alleged firm that enjoyed the credit facility had repaid the entire availed facility. He further submitted that the amount involved is much lesser than being alleged in CBI Complaint.

4. The Committee considered the oral submissions made by the Respondent and noted that the said Company was registered under Tamil Nadu Value Added Tax in 2010 and that the Respondent could have compared the turnover disclosed under VAT Act vis a vis those being projected by verifying the underlying assumptions based on which projections were made which was not done by the Respondent, thereby failing to apply proper professional judgment while certifying the said sales projections. This results in violation of the provisions of SAE 3400 which provides that a Chartered Accountant can participate in the preparation of profit or financial forecasts and can review them, provided he indicates clearly in his report the sources of information, **the basis of forecasts and also the major assumptions made in arriving at the forecasts and so long as he does not vouch for the accuracy of the forecasts.** The Respondent had failed to produce any working paper as evidence in his defense.

5. Though the committee noted that the respondent submitted that the entire amount has been repaid by the borrower for whom this certificates were issued, the Committee looked into the conduct of member specifically when he is certifying some information whether the due diligence was followed or not. Thus in considered opinion of Committee the misconduct on the part of the Respondent has been established within the meaning of Clause (3) 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/- (Rupees Twenty Five Thousand Only) be imposed upon the Respondent.

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)

sd/-

[CA. Chandrashekhar Vasant Chitale]
Member

(approved & confirmed through e-mail) (approved & confirmed through e-mail)

sd/-

[CA. Manu Agrawal]
Member

(approved & confirmed through e-mail)

Date: 17th August 2020 through Video Conferencing

Certified to be True Copy

(Mohita Khanna)

Assistant Secretary

Disciplinary Directorate

The Institute of Chartered Accountants of India

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

[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

File No. [PR/211-B/2015/DD/30/17/DC/747/2018]

In the matter of:

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No.18, Bishop Road,
Puthur,
Tiruchirapalli-620 017**

.....Respondent

MEMBERS PRESENT:

Presiding Officer

- 1. CA. Amarjit Chopra, Govt. Nominee on the Chair**
- 2. CA. Rajendra Kumar P, Member**
- 3. CA. Chandrashekhar V. Chitale, Member**

DATE OF FINAL HEARING : 30.07.2019

PLACE OF FINAL HEARING : ICAI, CHENNAI

PARTIES PRESENT:

Respondent

: CA. A. Ganesh Babu



Charge in brief:-

1. Allegation is that the Respondent had certified the sales figures and Projected Sales with exaggerated figures in respect of various Firms without verification of underlying documents. The Complainant stated that their Department had received a complaint from Indian Bank wherein it has been alleged that two of their then Branch Managers sanctioned Secured Overdraft facilities to someone named Sh. R. Rajkumar and others based on financial statements containing exaggerated and unrealistic sales projections which were certified by the Respondent. According to the Complainant, this has caused wrongful loss of Rs.1,55,68,000/- to the Bank.

Brief of Proceeding :

2. The Committee noted that the Respondent was present and appeared before it. Since this was the first hearing, the Respondent was put on oath. The office apprised the Committee that no one from the Complainant Department is present to substantiate the charges, however, notice intimating schedule of this meeting was duly served upon them.

The Committee, thereafter decided to proceed ahead based on available documents on record in absence of the Complainant.

2.1 In the absence of the Complainant, the office read out the charges. On being asked whether the Respondent pleads guilty to the charges, he replied in negative and wished to defend the same.

2.2 Thereafter, the Respondent made his submissions against the charges.

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



FINDINGS :

3. Upon perusal the documents on record, viz. the Complaint, Written Statement, Prima Facie Opinion and further written/oral submissions of the Complainant, Respondent, the Committee noted that there is only one charge against the Respondent, which is explained in para 1 above.

4. The Committee gives its findings, which are as under:-

4.1 The Complainant in this case is Superintendent of Police, Central Bureau of Investigation. It is their charge that the Respondent had prepared and certified the financial statement of the borrowers without obtaining any supportive documents and made exaggerated sales projections without any rational and justifications. Based on the financial statement and the projections by the Respondent, the Indian Bank had sanctioned the secured overdraft facilities.

4.2 The Committee takes note of the Tax Audit Report and financial statements of Mrs. Jayasudha Napoleon, Prop. M/s. Jeevan Techniologies for the financial years ended on 2009, 2010 and 2011 audited and certified by the Respondent. It may also be noted that the Respondent in his written statement has accepted that "*I prepared and certified the financial statements at the request of the borrower through her accountant on the basis of books of account produced me and information and explanations offered to me.*"

In view of above statement of the Respondent, it is evident that the Respondent was involved in preparation and as well as in auditing/certification of financial statements of the borrower/client.

Further, in view of audited projected financials, it is noted that projected turnover for financial years 2009, 2010 and 2011 has been certified as Rs.161 lakhs, Rs. 187 Lakhs and 230 lakhs respectively by the Respondent. The Committee also



noted that the said Company had applied for and taken Registration under Tamil Nadu Value Added Tax in 2010.

The Committee is of the view that the Respondent should have compared the turnover disclosed under VAT Act and the turnover as per financial statements, which is not done by the Respondent. The Committee is of the opinion that the Respondent has not applied proper professional judgment while preparing these financial statement.

The Respondent has also violated the provisions of SAE 3400 which contained that *"A Chartered Accountant can participate in the preparation of profit or financial forecasts and can review them, provided he indicates clearly in his report the **sources of information**, the **basis of forecasts** and also the **major assumptions** made in arriving at the forecasts and so long as he does not vouch for the accuracy of the forecasts. The Council has further opined that the same opinion would also apply to projections made on the basis of hypothetical assumptions about future events and management actions which are not necessarily expected to take place so long as the auditor does not vouch for the accuracy of the projections"*

4.3 The Respondent has failed to produce any working papers as evidence in his defense. Thus, the Committee is of the view that the Respondent has prepared the financial statement and also projections to suit the requirements of his client.

Based on the above, the Committee is of the view that the Respondent is grossly negligence in performing his duties as a Chartered Accountant.

4.4 In conclusion, the Committee holds the Respondent GUILTY of professional misconduct falling within the meaning of Clause 3 of Part I of Second Schedule of the Chartered Accountants Act.




CONCLUSION :

5. Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Clause (3) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.




**Sd/-
(CA. AMARJIT CHOPRA)
PRESIDING OFFICER
GOVERNMENT NOMINEE**

**Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER**

**Sd/-
(CA. CHANDRASHEKHAR V. CHITALE)
MEMBER**

DATE : 10th February, 2020

PLACE : NEW DELHI

Certified Copy

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

