



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/237/2015/DD/261/2015/DC/767/2018

In the matter of :

Shri Rajashekara N., IPS
Superintendent of Police,
Central Bureau of Investigation
Bank Securities & Fraud Cell,
2nd Floor, No. 36, Bellary Road, Ganganagar,
Bangalore- 560032

..... Complainant

Versus

CA. C. Gurusamy (M. No. 208976)
M/s C. Gurusamy & Co., Chartered Accountants,
798/15, North Street,
Chatrapatti,
Rajapalayam – 626 102
Tamil Nadu.

..... 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

1. Vide report dated 10th February 2020 (copy enclosed), the Disciplinary Committee was of the opinion that **CA. C. Gurusamy (M. No. 208976)** 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 issuance of false certificates dated 31st August 2010 and 8th August 2010 in case of M/s Indhumathi Refineries P. Ltd Ltd. (herein after referred to as the 'Company') that are alleged to be presenting false and unverified information. 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.”

✓ (R)



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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 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 did not appear before the Committee but vide his e-mail dated 11th August 2020 he accepted his guilt and pleaded apology. He also stated that in 21 years of his practice, this was the only event of complaint against him and that he had always co-operated with the Disciplinary Committee during enquiry.
4. The Committee considered the said letter of the Respondent along with the Findings of the Disciplinary Committee and noted that the Respondent had failed to bring on record the documents which were relied upon to issue the said certificates whereas based on information available on record, it had been established in the finding that the Respondent received format of the said certificates from one of the Director of the Company and, thereafter, the Respondent issued the certificates without verifying any statement and books of accounts.
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 name of the Respondent be removed from the register of members for a period of 01(one) year along with imposing a fine of Rs. 1,00,000/- (Rupees One Lakh 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 : 17th August 2020 through Video Conferencing

✓ (P)

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/237/2015/DD/261/2015/DC/767/2018]

In the matter of:

**Shri Rajashekara N., IPS
Superintendent of Police,
Central Bureau of Investigation
Bank Securities & Fraud Cell,
2nd Floor, No. 36
Bellary Road, Ganganagar,
Bangalore- 560032**

..... Complainant

Versus

**CA. C. Gurusamy (M. No. 208976)
M/s C. Gurusamy & Co.,
Chartered Accountants,
798/15, North Street,
Chatrapatti,
Rajapalayam – 626 102
Tamil Nadu.**

..... Respondent

MEMBERS PRESENT:

**CA. Atul Kumar Gupta, Presiding Officer
CA. Amarjit Chopra, Government Nominee
Shri Rajeev Kher, Government Nominee
CA. Rajendra Kumar P, Member**

Shri Rajashekara N., IPS Vs. CA. C. Gurusamy (M. No. 208976)

DATE OF FINAL HEARING : 26.12.2019

PLACE OF FINAL HEARING : ICAI Bhawan, Chennai

PARTIES PRESENT:

Complainant: Shri Brajesh Kumar (Dy. S.P.), Authorized Representative

Respondent: CA. C. Gurusamy

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. The Complainant [CBI] alleged that the Respondent issued false certificates dated 31.8.2010 and 8.10.2010 by concealing facts and presenting false and unverified information to the bank in case of M/s Indhumathi Refineries P. Ltd. The allegations in relation to certifying the inclusion of equity by the borrower for a sum of Rs.7.7 crores and 16.32 crores respectively for the direction of the storage, bank and electric work for Sunflower oil project wherein based on that certificate, the bankers extended credit to the Company.

Brief facts of the Proceedings:

3. On the day of hearing, the Committee noted that Complainant's Representative was present. The Respondent also appeared before the Committee. Both Complainant and Respondent were put on oath. The charges were taken as read. On being asked to the Respondent whether he pleads guilty, he replied in negative. Thereafter, the Committee directed the Respondent to proceed with his defence. After considering all papers available on record and pleadings, the Committee proceeded with the matter.

Shri Rajashekara N., IPS Vs. CA. C. Gurusamy (M. No. 208976)

Findings of the Committee

4. On the matter stated above, the Committee was informed by the Complainant that for the said fraud committed in the entire process, the concerned bank officials were also arrested. On being enquired and the documents referred, there was a credit being extended to the company on a pretext of certain equity to be infused by the promoters. The Promoters were supposed to infuse the equity as margin and for rest of the amounts, the bankers were supposed to issue the payment directly to the contractor/vendor. Later on, borrowers approached the bank that they have completed the project with their own resources and looking for the reimbursement of the expenses incurred. There, the bankers insisted on the certificate from a Chartered Accountant for the infusion of capital by the borrower, for which the Respondent issued two certificates dated 31.8.2010 and 8.10.2010 for a sum of Rs.7.7 crores and 16.32 crores respectively. The Complainant submits that the Bank extended the credit limit to the borrower based on the certificate issued by the Respondent and without any verification or physical visit to the factory. The Complainant further submits that at a later stage when the physical visit made to the factory, it was found that instead of 5 storage tanks that have been claimed to be constructed by the Company, only one storage tank is constructed by the Company.
5. The Committee noted that the Respondent denied all the allegations and submitted that the said certificates were issued for existing asset only. He submitted that the land for which certificate was issued was duly registered and was valued by an independent valuer. He submitted that the inventory of plant and machinery of the company was also prepared by the independent consultant and approved by the Valuer, so he relied on the third party and committed innocence in the entire case.
6. The Committee noted that being enquired about the basis of certificate issued by the Respondent whether, he at any point of time reviewed the invoices of the said construction, the payment released from the banks or any other working papers which can substantiate that before the said certificate issued, he had revised the transactions with diligence in response of which the Respondent mentioned that he lost all the working papers during shifting to another place and now has nothing to produce as corroborative evidence.

7. The Committee noted that there was no evidence by the Respondent to substantiate the money being transacted from the bank to the tune of Rs.16.32 crores as alleged to be investigated on the directions by the borrower which can substantiate his claim as being bona fide. The Committee noted that one Mr. L. Ravichandran who was assisting the Respondent and was working as tax consultant since 1993 had stated that the Respondent issued certificate without verifying the bills, invoices, and books of accounts of the Company. He further submits that a director of the Company, Mr. R. Shenbagan had sent the format of the said certificates to him and he forwarded the same to the Respondent who issued the certificates without verifying any statement and books of accounts. The Committee finds merits in the allegation leveled by the Complainant and it is evidenced that the Respondent has made errors in his professional duties and responsibilities.

Conclusion

8. In view of the above findings, the Committee is of the view of the above fact that the Committee and in the considered opinion of the Committee, the Respondent is **GUILTY** under Clause (7) of Part I of Second Schedule of Chartered Accountant Act 1949.

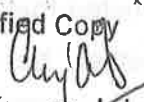

Sd/-
(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

Sd/-
(SHRI RAJEEV KHER)
GOVERNMENT NOMINEE

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

DATE: 10-02-2020
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