

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2020-21)]
[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/G-114/17-DD/373/17-DC/1133/2019]

In the matter of:

**Shri M. Srikanth,
District Co-operative Officer,
Government of Andhra Pradesh
Cooperation Department,
Prakasam Bhawan, Prakasam District
Ongole - 523 001 (A.P.)**

.....Complainant

Versus

**CA. Kesava Rao Tata (M.No.206407),
M/s Kesava Rao & Co., Ongole (Andhra Pradesh)
Chartered Accountants,
G-4, Biyyapu Guptha's Tranquil,
Opp: Veterinary Hospital, Santhapet
Ongole 523 001**

.....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: 27^h August, 2020 through Video Conferencing

The following Parties were present:

- (i) CA Kesava Rao Tata, the Respondent (appeared from his personal office at Ongle)
- (ii) CA. R G Rajan, Counsel for the Respondent (appeared from his personal office at Chennai)

Allegations of the Complainant:

1. The Complainant alleged that the Respondent failed to report a fraud of huge proportion involving 212 gold loans to a tune of Rs.2.16 crores, while carrying out the Concurrent Audit of Prakasam District Cooperative Central Bank Ltd., Kurnool branch for the Financial Years 2011-12 and 2012-13.

Proceedings:

2. At the time of hearing on 27th August 2020, the Committee noted that the Respondent along with his Counsel was present during the hearing. However, the Complainant was neither present nor any communication was received from him. The Committee, thereafter, decided to proceed in the matter. The Respondent and his Counsel both gave a declaration that there was nobody except them in their respective room from where they were appearing and that they would neither record nor store the proceedings of the Committee in any form. Being the first hearing, the Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wished the charges to be read out or it could be taken as read. The Respondent stated he was aware of the allegations raised against him and the same might be taken as read. On being asked, as to whether the Respondent pleaded guilty, his Counsel replied that the Respondent pleaded not guilty and opted to defend his case.

The Counsel for the Respondent made his submissions in the matter. Thereafter, the Committee examined the Counsel for the Respondent. Subsequently, the Counsel made his final submissions in the matter.

Based on the documents available on record and after considering the written and oral submissions made by the Counsel for the Respondent before it, the Committee concluded hearing in the matter.

Findings of the Committee:

3. At the outset, the Committee noted the Director (Discipline) had in his prima facie opinion dated 17th May 2019 held the Respondent not guilty of the alleged charges. The Board of Discipline considered the prima facie opinion dated 17th May, 2019 of the Director (Discipline) along with the Complaint, Written Statement and additional

Shri M. Srikanth, District Co-operative Officer-vs- CA. Kesava Rao Tata (M.No.206407)

submissions on record. The Board on consideration of the same noted that subsequent to the receipt of the Inspection Report dated 14th August 2015 and the additional Inspection Report dated 10th February 2016, the Collector and District Magistrate, Prakasam District, Ongole vide its Order dated 16th September 2016 observed that fraud was detected in issue of gold loans by the bank staff by pledging spurious gold instead of original gold, showing the gross weight excessively instead of actual weight and showing excess weight on net weight of ornament and thus had requested to take suitable action against the internal and statutory auditors for failure to report a fraud during the period from 2011 to 2014 of huge proportion involving 212 gold loans to a tune of Rs. 2,15,64,970.50/- as per the instruction of the Special Commissioner for Cooperation and Registrar of Cooperative societies, AP, Hyderabad vide its letter dated 14th October 2015. The Board further opined that para 24 of the Job chart for concurrent auditors clearly provided for verification of the documents and securities obtained in respect of various loans sanctioned. Also, the reporting by the Respondent in his audit report for the quarter ending March 2013 was in respect of noncompliance of KYC in deposit accounts only. Thus, the Board was of the view that due diligence has not been exercised by the Respondent while carrying out his professional assignment and accordingly, did not agree with the prima facie opinion of the Director(Discipline) that the Respondent is NOT GUILTY of Professional Misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 and decided to refer the case to the Disciplinary Committee to proceed under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

Accordingly, the Committee conducted further inquiry in the extant matter against the Respondent that whether the Respondent, being the Concurrent Audit of Prakasam District Cooperative Central Bank Ltd., Kurnool branch for the F.Y. 2011-12 and 2012-13 had failed to report a fraud of 212 gold loans to a tune of Rs. 2.16 crores.

4. The Committee noted the oral submissions made by the Counsel for the Respondent at the time of hearing as well as the written submissions made by the

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Respondent vide his letter dated 11th March 2020 in the matter. It was, inter-alia, submitted that :-

a) the scope of concurrent audit issued by the Bank did not include verification / checking of gold articles for quality / weight / genuineness / purity by the concurrent auditors. It was the job of appraiser who approved the quality and weight of the gold pledged for the loans.

b) it could not made out from the complaint as to which period the gold loans were sanctioned on which fraud was alleged. The Respondent had been the concurrent auditor only for Kurnool Road Branch for the financial years 2011-12 and 2012-13 whereas Para 2 of the letter of the Special Commissioner for Cooperation and Registrar of Cooperative Societies dated 14th October, 2015 clearly stated that the fraud was being committed over a long period of time for which he could not be made answerable for loans which were not sanctioned during his tenure as concurrent auditor.

c) the Special Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad, vide his letter dated 14th October, 2015 (C-35) had instructed the Collector and District Magistrate, Prakasam District, Ongole to get additional report from the Inspection Officer in respect of failure of auditors in performing their duties but in the very same letter, he had also instructed the Collector and District Magistrate, Prakasam District, Ongole to address the Institute of Chartered Accountants of India with a request to take suitable action against the internal and statutory auditors for failure to report a fraud.

d) That the additional Inspection Report dated 10th February, 2016 (which he contended to have been done after the Special Commissioner for Cooperation and Registrar of Cooperative Societies, AP, Hyderabad letter dated 14th October, 2015) had clearly reported that the Respondent had done his job within his limits (C-16 to

17).

e) The Collector and District Magistrate, Prakasam District, Ongole, vide her Order dated 16th September, 2016, had not given any findings contrary to that of the additional Inspection Report as stated above. However, she had blindly directed to take suitable action against the internal and statutory auditors (C-36 to C-47).

f) With respect to para 24 of the Job Chart for concurrent auditors, it was submitted that it provided general instruction for verification of various loans and advances and specific instruction to only verify the documentations and securities obtained in respect of various loans sanctioned and did not contain any procedure for detection of fraud (W-39).

g) The Respondent also submitted that he had verified whether jewelry offered as security for all the gold loans sanctioned during the period for which he was the concurrent auditor, so as to check whether the same had been kept in sealed jewelry bags, etc. and he did not find any inconsistency during his verification and thus, there was no requirement to report anything.

5. The Committee in this regard noted the concluding paragraph of the Report of the Inspection Officer (C-17) which provided the following observations in respect of the role of the auditors:

*“On examination of the depositions of the Auditors, it is observed that they have verified the Gold Ornaments basing on the information recorded in the Loan applications and as per their statements checking of quality and quantity is not in their purview. It is observed that as concurrent auditors **they have done their job within their limits (emphasis added).**”*

6. Thus the Committee noted from above that no adverse remarks were made in respect of the auditors in the Inspection Report and it was concluded that they had verified the Gold Ornaments based on the information recorded in the loan applications i.e. as made available to them during the course of audit and they had

done their job within their limits. Thus, it was viewed that the Respondent being the concurrent auditor of the Bank had performed his duty without negligence.

7. The Committee further noted 'Job Chart' and noted that there was no specific instruction for verification of gold loans except general instruction for various loans sanctioned (**W-39**). Further on review of 'Concurrent Audit Report' (**D-4to D-17**), it was noted under 'Gold Loans', the concurrent auditor was required to report on the following:

"GOLD LOANS

Are Gold ornaments appraised by approved appraiser before disbursement of loans / advances against gold (emphasis added)."

From the above, it was clear that the quality of gold ornaments were required to be appraised by the approved appraiser.

8. Further, on review of the list of cases of misappropriation as reported in respect of Kurnool Branch by the Collector and District Magistrate vide letter dated 16th September, 2016 (**C-36 to C-47**) after physically verifying total 1920 outstanding gold loans in both Kurnool Road and Central Office Branches, that it was Appraiser and Shroff who had been reported as liable for misappropriation along with borrower and manager in each case.

8. In view of the facts discussed above, the Committee was of the opinion that the scope of Concurrent Audit issued by the bank did not include checking of gold articles in context of quality/ weight/ genuineness/ purity as application had to be considered with appraiser valuation. It was further viewed that an auditor can never be considered to be in a position of performing technical assessment of articles/products which is the job of appraiser who approves the quality and weight of the gold pledged for the loans and an auditor relies on the same if there is no reason to doubt the valuation done by appraiser.

9. The Committee was thus of the considered opinion that since no misconduct was attributable on the part of the Respondent ,therefore, the Respondent was not guilty of Professional Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Conclusion :

10. Thus in conclusion, in the considered opinion of the Committee, the Respondent was held **NOT GUILTY** of professional misconduct falling within the meaning of Clause (7) of Part I of Second Schedule of Chartered Accountant Act 1949.

11. The Committee, accordingly, ordered the closure of this case against the Respondent.

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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: 16th December, 2020 (through video conferencing)

Certified to be true copy
Mohita Khanna
CA Mohita Khanna
Assistant Secretary,
Disciplinary Directorate
The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shaheed, Delhi

