



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

[PR/56A/14-DD/94/14-DC/721/17]

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.

[PR/56A/14-DD/94/14-DC/721/17]

**The Asstt. General Manager,
State Bank of India,
Sir P M Road Branch,
Ground Floor, Gresham House,
Sir P M Road, Fort,
Mumbai- 400 001**

..... Complainant

Versus

**CA. Yogesh Gori ... (M.No. 132809)
M/S Gori & Associates... (FRN 130118W)
270, Central Facilities Building-II
A.P.M.C. Market-II, Opp. Jalram Market
Sector-19, Vashi,
Navi Mumbai- 400 705.**

.....Respondent

MEMBERS PRESENT:

- 1. CA. Atul Kumar Gupta, Presiding Officer**
- 2. Shri Rajeev Kher, I.A.S Retd., Government Nominee**
- 3. CA. Amarjit Chopra, Government Nominee**
- 4. CA. Rajendra Kumar P, Member**
- 5. CA. Pramod Kumar Boob, Member**

Date of Meeting: 22nd September, 2020 (through Video Conferencing)

- 1. That vide findings under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007**



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dated 10.02.2020 the Disciplinary Committee was inter-alia of the opinion that **CA. Yogesh Gori (M. No. 132809)** was **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule and Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule to the Chartered Accountant Act, 1949.

2. The Respondent was present before the Committee through video conferencing mode and on being asked about his submissions in his defense, he submitted that he has already submitted his written statement in response to the findings of the Committee. In addition to the same, he submitted that the alleged certificate for certifying the book debts for the months of February and March, 2013 were not signed by him. Though, he accepted that he had signed the Certificate for earlier periods i.e. January 2013 and December 2012. While enquired about the variation in the figures of debtors with the actual turnover in the months of December 2012 and January 2013 certified by the Respondent, he explained that he verified all sales invoices with respect to various aspects like - date wise, invoice wise and party wise. He added that turnover figure was duly verified at the time of conducting the audit. He emphasized that when he noticed no corresponding movement in the cash flows, he stopped certifying the same from February, 2013 onwards. In other words, he stated that on noticing no movement in the money, he stopped certification work. The Committee asked him various questions in relation with the certification work. Among others, it questioned as to how he ensured that debtors figure do not increase the figure of turnover of the Company. He was also questioned as to if he had filed any complaint against the Company for forging his signatures to which he replied in negative.

3. The Committee while looking into the matter, conduct of the Respondent and the submissions made by him, was of the opinion that the Respondent was grossly negligent while issuing the certificate as he had failed to substantiate his claim for application of



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due diligence in verifying the debtors figure with respect to turnover of the Company and filing any complaint for alleged forgery of his signatures. Besides, it was observed by the Committee the Respondent failed to obtain debtors confirmations and the confirmation of balances with the Bank. Accordingly, the Committee decided that ends of justice could be met if reasonable punishment is given to him.

4. Therefore, keeping in view the facts and circumstances of the case, material on record, and submissions of the Respondent before it, the Committee ordered that the name of the Respondent i.e. CA. Yogesh Gori (M. No. 132809) be removed from the register of members for a period of 01 (One) Year.

sd/-

(CA. ATUL KUMAR GUPTA)
PRESIDING OFFICER

(approved and confirmed through e-mail)

(SHRI RAJEEV KHER, I.A.S.(RETD.))
GOVERNMENT NOMINEE

(approved and confirmed through e-mail)

(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

sd/-

(CA. RAJENDRA KUMAR P)
MEMBER

(approved and confirmed through e-mail)

(CA. PRAMOD KUMAR BOOB)
MEMBER

Certified to be true copy

Jyotika

Jyotika Grover
Assistant Secretary,
Disciplinary Directorate

The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

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-56A/2014-DD/94/2014-DC/721/2017]

In the matter of:

**The Asstt. General Manager,
State Bank of India,
Sir P M Road Branch,
Ground Floor, Gresham House,
Sir P M Road, Fort,
Mumbai- 400 001**

..... Complainant

Versus

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270, Central Facilities Building-II
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Sector-19, Vashi,
Navi Mumbai- 400 705.**

.....Respondent

MEMBERS PRESENT:

**CA. Atul Kumar Gupta, Presiding Officer
CA. Amarjit Chopra, Member (Govt. Nominee)
Shri Rajeev Kher, IAS Retd. (Govt. Nominee)
CA. Chandrasekhar Vasant Chitale, Member**

DATE OF FINAL HEARING : 10.08.2019

PLACE OF FINAL HEARING : ICAI Tower, Mumbai

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PARTIES PRESENT:

Complainant : Not Present
Respondent : CA. Yogesh Gori

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 of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule and Clause (2) of Part IV to the First Schedule to the Chartered Accountants Act, 1949. The said Clause (7) of Part I of the Second Schedule states that:-

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

And the aforesaid clause (2) of Part IV to the First Schedule states that:-

"(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work."

2. The allegations in this case is that the Book debts as per audited balance sheet of M/s VKS Projects Ltd. (hereinafter referred to as the "**Company**") for year 2012-2013 is Rs. 132.20 Crores as certified by the M/s Borkar & Muzumdar, Chartered Accountants. The book debts as per the stock statement submitted by Company for the month March 2013 is Rs.243.11 Crores as certified by the Respondent's firm. Thus, there is difference of Rs.110.80 Crores between the amount of Book Debts as on 31.3.2013. It appears that the Respondent had not obtained confirmation from the debtors and had solely relied on the Company's statement.

Brief facts of the Proceedings:

3. This matter was earlier heard on 18th April 2019 when the Respondent was put on oath and he pleaded 'not guilty' before the Committee. The Respondent was advised to submit certain documents and the matter was adjourned to 8th May 2019. Further, the Respondent vide his email dated 30th May, 2019, submitted his final submission and re-submitted the pages of

stock certificate signed by him for the month of December 2012 and January 2013. The Committee noted that there was nobody from the Complainant side. The records also mentioned that it was never being attended by the Complainant and it was just a complaint once filed and no one is submitting any response from the Complainant side; on the other side, the Respondent appeared before the Committee. Thereafter, the Committee sought whether he wish to proceed with his defence. The Respondent submits that they have already submitted their final submission before the Committee and they wish to rely upon the written submission. After considering all papers available on record, the Committee decided to proceed with the matter.

Findings of the Committee

4. The Committee noted that the Complainant bank has not submitted any submission or the documents. However, Respondent vide his email dated 30th May, 2019, submitted his final submission and re-submitted the stock certificate signed by him for the month of December 2012 and January 2013.
5. The Committee enquired from the Respondent that till which year he has audited that accounts. The Respondent replying to the query submitted that he had not audited nor he was the auditor. As per balance sheet, M/s Borkar & Muzumdar, Chartered Accountants were the auditors of the said Company and had just certified the receivables. The Committee noted that the Respondent was associated with M/s Borkar & Muzumdar till 2009. The Respondent submitted that he was associated with the firm but in his personal capacity. The Complainant Bank sent letters of confirmation to the Respondent's firm which were not replied by them. Most of the debtors also refused that they owe money to the Company, despite their names figuring in the book debts but refused that they owe money to the Company.
6. The Committee noted that in his written statement and at the time of personal hearing, the Respondent submitted he has not signed the alleged certificate of Book Debts as on 31st March 2013 on the basis of which the complaint was filed. The Respondent stated that he has signed similar certificates for the earlier period i.e. 31st December 2012 and 31st January 2013. The Respondent

further submitted that there may be a possibility that even the statements were produced before the bank without his knowledge as his certification is limited to that period only not afterwards.

7. He further submitted that the Company has accepted that one of the employee of the Company has forged his signatures and issued the said certificate. The letter of the confirmation submitted by the Company is reproduced below:



VKS Projects Ltd. *DA*

An ISO 9001:2008, OHSAS 18001:2007, ISO 14001:2004 Certified Company
507,B-Wing, Sai Sangam Building, Palm Beach Road, Sector 15,
CBD Belapur (E), Navi Mumbai - 400 614.
Tel.: 022 2757 3705
E-mail : project@vksprojects.com / info@vksprojects.com
Website : www.vksprojects.com

CERTIFIED TRUE COPY

To,
Gori & Associates
270, Central Facility Building No. 2,
Above SBI & PNB Bank,
Sector 19, Vashi,
Navi Mumbai - 400 705.

Dear Sir,

Subject: Reply to your letter on 26.08.2014

Our reply to your letter dated 26.08.2014 is as under :

We had asked explanations from concerned personnel who has used your seal and signature of the firm. He replied that due to urgently submission of stock and Debtors statement to SBI, Fort Branch to avoid penalty interest and other charged levied by the bank, he has submitted the statement using your signature. However he does not have any intention to cheat you as the figures were any way got to change at the time of final audit for F.Y. 2012-13.

We hereby again apologize for the said act done by our personnel. However since such act is not acceptable in true spirit and even may end up in danger for company in future, we have sacked him from the services of the Company.

We also request you to accept our apologizes and do not take any sever action as it will ruin company and management's image.

For VKS Projects Limited

C.D.Nathan
C.D.NATHAN
Director

At Belapur on 18th September 2014



8. The Committee noted that as stated by the Company, Signature of the Respondent was forged to which no FIR was filed by the Respondent. The

Respondent submits that he did not want to enter into legal repercussion and hence did not file any FIR.

9. The Committee observed that oral submission of the Respondent where he submits that account becomes NPA few years back but he was not the auditor and as per the final accounts M/s Borkar & Majumdar, Chartered Accountants were the auditor of the Company. The Committee enquired from the Respondent that while certifying the book debts he ever audited the abovesaid Company, the Respondent replied in negative.
10. The Committee further noted that the Respondent submitted that for he had considered the invoices which are being produced to him. When asked about the figures mismatched, as per the final accounts and as per the certificate as on 6th February, the certified debtors were Rs.297 crores and the actual debt is only for Rs.132 crores. The Respondent replied that it is based on the invoice provide to him which was duly checked. The Committee also noted that last year's debtors certified by the auditors were only Rs.46 crores to which sales turnover was of Rs.205 Crores. The Committee categorically asked the Respondent the turnover in the books when certified the total turnover is Rs.205 crores how the Respondent certified Rs.297 crores as debtors which raised suspicion on conduct of Respondent. At this point of time, the Respondent submitted that the Company has forged his signature and submitted inflated figures which is accepted by the Company vide their letter dated 18th September, 2014.
11. After hearing the Respondent, the Committee also found that the ratio of the turnover for the entire year viz-a-viz the debtors and the book-debts certified by the Respondent for the earlier two periods also do not match in any prudent way.
12. Accordingly, the Committee is of the view that even for the earlier period also the book-debts certified by the Respondent based solely on the invoices and other documents reflect want of skepticism. Related to the March 2013 certificate, the Committee is of the view that since the letter-head of the Respondent is being used, it should have been the right way at the part of the Respondent to file a legal case on the Company having forged his signatures,

stamps and the letter-heads to submit the alleged certificate to the bank, which has not happened from the Respondent side. Therefore, the Respondent failed to discharge his onus and reflects accommodative attitude which is want of diligence on his part and also results into bringing disrepute to the profession.

Conclusion

13. In the light of above and keeping in view the facts and circumstances of the case and looking into the entire scenario and the non-responsiveness of the Respondent to file the complaint against the Company raises suspicion towards the Respondent about his involvement in the entire case, accordingly, the Committee is of the view that the Respondent is **GUILTY** of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule and Clause (2) of Part IV to the First Schedule to the Chartered Accountants Act, 1949.

14. The Committee also desires to place on record the casual and careless attitude of the Complainant. The State Bank of India (the Bank) Sir P M Road Branch, Mumbai has lost its precious funds on the account of incorrect certificate. This has prompted the Bank to file a disciplinary case against the erring professional. However, in spite of several notices being issued the bank opted to remain mute spectator and did not cooperate in this judicial process. The Committee had no benefit of record and documents of the Bank, nor does it become aware of the process of vetting of certificates, action against the bank officials, if want of diligence was noticed on their part and so on. The Committee directs the Disciplinary Directorate to invite attention of the Board of Directors of the Bank to their state of affairs and to take suitable notice thereof.

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

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(SHRI RAJEEV KHER)
GOVERNMENT NOMINEE

Sd/-
(CA. CHANDRASEKHAR V.TCHITALE)
MEMBER

DATE: 10.02.2020
PLACE: New Delhi


Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate