

**COUNCIL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
396TH MEETING OF THE COUNCIL –24TH SEPTEMBER, 2020
FINDING OF THE COUNCIL – 24TH SEPTEMBER, 2020
UNDER SECTION 21 OF THE CHARTERED ACCOUNTANTS ACT, 1949**

**SRINIVASAN VENKATARAMANI IN RE:
[25-CA (S-73)/ 2008]**

MEMBERS PRESENT:

CA. Atul Kumar Gupta (President)(In the chair)
CA. Jay Chhaira
CA. Chandrashekhar Vasant Chitale
CA. Nandkishore Chidamber Hegde
CA. Durgesh Kabra
CA. Aniket Sunil Talati
CA. Babu Abraham Kallivayalil
CA. Dayaniwas Sharma
CA. Prasanna Kumar D
CA. Rajendra Kumar P
CA. G Sekar
CA. Ranjeet Kumar Agarwal
CA. Sushil Kumar Goyal
CA. (Dr.) Debashis Mitra
CA. Manu Agrawal
CA. Pramod Kumar Boob
CA. Anuj Goyal
CA. Prakash Sharma
CA. Hans Raj Chugh
CA. Pramod Jain
CA. Nanda Charanjot Singh
CA. Rajesh Sharma
CA. Sanjeev Kumar Singhal
Shri Vijay Kumar Jhalani

[Out of Four Signatories, one signatory to the Report of the Disciplinary Committee dated 13th June, 2018, namely, CA. Naveen N.D. Gupta was no longer member of the Council. The remaining three signatories to the Report namely, CA. Prafulla Premasukh Chhajed, Dr. P.C. Jain, Govt. Nominee and CA. Nihar Niranjana Jambusaria were not present at the time of consideration of this Report on 24th September, 2020.]

[CA. Atul Kumar Gupta, President was in the Chair when this Report was taken up for consideration on 24th September, 2020]



1. On perusal of letter dated 9th June, 2005 received from Central Bureau of Investigation (CBI), Bank Securities & Fraud Cell, Mumbai, **CA. Srinivasan Venkataramani** (hereinafter referred to as the "**Respondent**") was asked to offer his clarifications thereon vide Institute's letter dated 5th June, 2008 and 14th July, 2008. The Respondent submitted his clarifications vide letter dated 23rd August, 2008, which were not found to be satisfactory. Accordingly, it was decided to treat the matter as "Information" falling within the meaning of Clauses (5), (6) and (7) of Part I of the Second Schedule read with Section 21 of the Chartered Accountants Act, 1949.

2. **The specific charge(s) against the Respondent on the basis of initial allegation letter received from CBI, Bank Securities and Fraud Cell, Mumbai are stated below:-**

2.1. The funds sanctioned by Central Bank of India to M/s Belgundi Cements Pvt. Ltd.(hereinafter referred to as the 'Company') for construction of power plant were diverted to the accounts of the various non-existent firms created by the directors of the company in the name of their own employees.

2.2. The Respondent was appointed by the Central Bank of India for monitoring the functioning of the cement plant and power plant of the company and was required to ensure that the bank's interest were fully protected and the funds which were released were utilized for the purpose for which they were sanctioned.

2.3 All the disbursements made to the company were based on the recommendations of the Respondent in his capacity as monitor. It is alleged that the Respondent did not make any efforts to ascertain the genuineness of the claim made and failed to detect the non-existing nature of the firms viz. M/s Dhananjaya Industries, M/s BhaskarJadhav Contractors and M/s Deshmukh Contractors.

2.4 It was informed that the Managing Director of the Company and his associates prepared false invoices in the name of these non-existent firms and submitted to the bank and obtained disbursements from the term loan account of the Company. On being asked by the bank vide letter dated 28th May 1999, the Respondent only stated that the funds disbursed by the bank were utilized by the Company.

2.5 Despite doubts being raised about the genuineness of the firms by the bank, the Respondent continued to recommend for disbursement of funds in favour of these non-existent firms which provided an opportunity to the Company to divert funds from the bank and causing a wrongful loss of more than 4 crores.

2. The Respondent submitted his duly verified Written Statement dated 26th March, 2009.

3. Thereafter, in accordance with the provisions of Regulation 12(11) of the Chartered Accountants Regulations, 1988, the above papers containing the 'Information' and the written

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statement of the Respondent were considered by the Council at its 289th meeting held in August, 2009 at New Delhi. The Council being prima facie of the opinion that the Respondent was guilty of professional and/or Other misconduct, decided to cause an enquiry to be made in the matter by the Disciplinary Committee.

4. The Disciplinary Committee conducted the enquiry in the case and the hearing in the matter was concluded at its meeting held on 4th April, 2013 at Mumbai. However, the Report in the matter could not be finalized as the then Committee could not reach to any decision in the matter based on documents on record. Thereafter, the Committee gave opportunity to the Respondent to present his defence / submissions on the allegations on 7th June, 2017. The hearing in matter was finally concluded on 4th April, 2018 at Mumbai. Disciplinary Committee submitted its report dated 13th June, 2018 with the conclusion that the Respondent is GUILTY of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 read with Section 21 of the said Act.

5. While arriving at its aforesaid conclusion, the Disciplinary Committee had relied on the following reasonings /arguments:-

5.1. The Committee noted that the charge against the Respondent was that he had been appointed by the Central Bank of India for monitoring the functioning of the cement plant and power plant of the Company, M/s Belgundi Cements Pvt. Ltd and it was required of him to ensure that the interest of the bank were fully protected and the funds which were released are utilized for the purpose for which they were sanctioned. In all the disbursements made by the Company, the same were based on the recommendations of the Respondent in his capacity as monitor. However, the Respondent did not make any efforts to ascertain the genuineness of the claims made and failed to detect the non-existent nature of the firms such as M/s Dhananjay Industries, M/s BhaskarJadav Contractor and Deshmukh Contractors. It was alleged that despite the doubts being raised about the genuineness of these firms by the Bank, the Respondent continued to recommend for disbursement of funds in favour of these non-existing firms which provided an opportunity to the Company to divert funds from the bank causing wrongful losses of more than four crores of rupees.

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- 5.2. The Committee examined the Respondent and also heard his detailed oral submissions. In order to effectively decide the case, the Committee decided to look into the various submissions of the Respondent both in the form of his written statement at the prima facie stage and also the oral and written submissions provided in the form of paper book.
- 5.3. In his written statement, the Respondent stated that the matter was more than 10 years old and the records if any, available was minimal. He had already given his detailed clarifications vide letter dated 23.8.2008 based on whatever records that have been available with him. Owing to the period of time that has elapsed, it was difficult for him to recollect the facts and this has been more than aggravated by the fact that he has given up his practice in the year 2004 whereby he has surrendered his COP and also dissolved his firm.
- 5.4. Thereafter, making his submissions on the alleged complaint, the Respondent submitted that as per the terms of appointment to his firm, it was their responsibility to "monitor the Company's operation with regard to the Cement and Power projects to ensure that the Bank's interest is fully protected at all times". Further, funds proposed to be released under the Rehabilitation package were utilized for the purpose for which it were sanctioned. They were therefore required to make periodical site inspection to observe the working of the Company's proposed cement and power plant and also for verification of security given to the bank. Thus their paramount duty to the bank as per the letter of appointment was to protect the interest of the bank at all times. Since there was no allegation of gross negligence against him by the CBI in respect of monitoring of the operation of the cement plant but only in respect of the power plant, he would submit his defence with respect to the power plant only. In respect of the same, the Respondent submitted that since the bank had sanctioned the term loan of Rs.630 lakhs to the Company for setting up of the power plant, he was required to monitor the payments/withdrawals made by the Company from this term loan. The CBI's allegation is that the three firms were bogus or run by the persons without adequate means. It was argued that it was not within the scope of his appointment. He mentioned that his duty was only to ensure that money is paid only for the work approved by the report of the technical consultant and

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also for the quantum of work actually executed. He made visits to the site almost every month and periodically assessed the physical progress of the work and then only certified the relevant bills for payment by the bank. He has not relied on either the CA.'s certificate or the management certificate or the report for the purpose of certifying the payments to be released to the Contractors but it was only on the basis of physical verification at site with the bills presented to them. Since he was only a monitor of the project and not an investigator, he was only required to monitor and not required to ensure whether the bills were made to the correct people and not to bogus/fake entities unless any suspicion arose either suo moto or by others.

- 5.5. Giving his detailed submission on the self-contained note No.RC-1/E/2002/CBI/BSFC/BLR, the Respondent gave his parawise response to the said note.
- 5.6. With reference to the allegation of diverting the funds sanctioned/disbursed by the bank to various non-existing firms, the Respondent after explaining the various detailed procedures for disbursement of funds stated that he had visited the site regularly where the work was going on almost every month and used to physically verify the quantum of work as specified in the contractor's bills which were received. In support thereof he enclosed his three monthly reports and stated that a perusal of these reports would clearly indicate the extent of every effort put in by him during the monitoring of the accounts. Further, the actual payments were made by the bank directly to the contractors through pay orders and it was not possible for him to verify whether the same was made to anyone else other than the contractor. The pay orders never reached his hands for verification. He, therefore, stated that the very fact that the payments were made directly by the bank to the contractors against the approved plan work executed being monitored physically on regular basis, the bills for work done being submitted in time and verified, there was no reason to doubt on the genuineness of the contractor.
- 5.7. He, therefore, took his defence on this charge by stating that he had taken all steps to protect the interest of the bank by first physically verifying that the work

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for which the payments were disbursed and that payments were made for the work which was sanctioned in the rehabilitation package.

- 5.8. In respect of the allegation that the various bills were submitted to the bank in the name of non-existing firms like M/s Dhananjay Industries, M/s BhaskarJadav Contractors and M/s Deshmukh Contractors, he stated that the payments were made based on physical verification of the work done as per the sanctioned plan and hence any doubt of non-existence of the work would come only when no work has been done for the payment made. In the absence of the said doubt, there was no reason for the Respondent to question the details of the contractors. The fact of the alleged Contractor-firms being floated in the name of one of the employees of the Company Mr. Harry Dhau could only have been detected by any agency like CBI who investigated the case with an eye of suspicion.
- 5.9. The Respondent further submitted that they have not received the letter dated 28.5.1999 from Shri E. Dwarakinathaiah of Central Bank of India requesting him to verify the payments made in favour of the above mentioned three firms. Even if assuming not to accept that he received the said letter, the Respondent stated that the final bill of M/s Dhananjay Industries for Rs.37,50,000/- bearing no.DI/BCPL/99-06 was dated 1.3.99, the final bill for Deshmukh Contractors is Bill No.BCL/09-08 dated 25.11.2008 and the final bill for Bhaskar Jadhav Contractors is Bill No.211,212 and 213 dated 15.1.99. This only goes to show that the payments were made to all the above three parties much before the purported letter of the Bank dated 28.5.1999. No payments have been made to any of the three parties after the dates of the last bills specified earlier. It was further submitted that the report regarding the end use of the funds was given in detail in his monthly reports which was submitted to the Bank and it was self-explanatory.
- 5.10. The Respondent at the hearing(s) before the Committee gave a brief background of the circumstances of the case and explained that the Power plant in question was a second hand plant dismantled by the Rajasthan Electricity Board and brought to this specific location for reinstallation. The cement plant was already

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in existence and the Central Bank of India had also funded the acquisition of the original power plant.

- 5.11. It is noted that during previous hearing, the Committee examined the Respondent on the scope of his assignment based on the appointment letter in order to examine the scope of his work regarding monitoring of the project. In his deposition, the Respondent submitted that the monitoring had been going on even earlier by some other firm of chartered accountants and even if one goes by the records, the people like Bhaskar Jadav Contractor and Deshmukh Contractors were also on rolls of contract firms and payments were being made earlier also. The Respondent also mentioned that apart from his visits to the plant, other officials from the bank had also visited the site from time to time and they had taken photographs for verifying the progress as indicated in the reports. These visits by the bank officials were independent of the Respondent and if he is not mistaken during his tenure, there were at least four visits from the bank and also from the head office. Moreover, the Respondent in his deposition before the Committee stated that whenever he went on visit, he would report that a particular thing has been constructed. He would also ensure that whatever funds which were sanctioned for every purpose had resulted in the asset being created on the site. Moreover this check he had kept in all the cases and at the site there were at least 18-20 vendors working on a particular project amongst whom many had been granted payment either as an advance from the budget or after they have completed the job. There was no case where they gave the money and things were not there at the site. It was only in 2-3 cases where the vendors were doing fabrication work at their site only on account of a particular item being not available at the (factory) site. He also made a visit to their site i.e. to the factory of the vendors to see the progress made particularly in a case of conveyor belt. Three contractors whose names were in the complaint were basically involved in the Civil contracting work and M/s Dhananjaya Electricals were given the job of entire electric and turbine work. All these contractors have been controlled by the bank before the disbursement could be made. Thus the payments made to these 3 specific contractors were out of the money which was already sanctioned. The Respondent refuted the

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allegations that these contractors were non-existent and stated this was totally false. Since the contractors and vendors had already been identified and approved earlier before he came into the picture, it was not part of his job to see whether any particular vendor was there or not in his office or whether the work was being executed or whether these contractors were there from the relatives of the management. Since the contractors and vendors had already been identified and approved earlier and were also being paid earlier, there was no reason for him to suspect their credentials.

- 5.12. The witness (official from CBI) also produced before the Committee voluminous documents relating to case filed before CBI, Bangalore in the subject matter of this case. It is noted that the proceedings are going on in CBI Court against officials of the Company and Bank but, however, no charge-sheet has been filed against the Respondent in particular. In his written submission dated nil received on 7.5.2013, the Respondent reiterated his previous submission regarding the alleged letter of the bank dated 28.5.1999 addressed by the bank to the Respondent firm and which was existing in the records in CBI were never received by him/his firm.
- 5.13. The Respondent had further submitted that it was also proved in the Court that the money disbursed to the parties had reached the hands of the borrower. Moreover, the bank had also settled the liability of the Borrower as a "one time settlement" after obtaining NOC from CBI. Thus in conclusion, the Respondent stated that he had done his duty as a monitor with all diligence required for the assignment.
- 5.14. The Committee carefully examined the submissions of the Respondent both oral and written and also perused various records before it. The Committee noted that the Respondent had been appointed as a monitor in respect of the funds sanctioned for rehabilitation of M/s Belgundi Cements Pvt. Ltd. The Committee viewed that the scope of the work as specified in the appointment letter is very wide with extensive responsibilities. Some of the paras noted by the Committee are reproduced herein below:

"Now you are required to monitor the company's operations with regard to cement and power projects to ensure that Bank's interest is fully protected at all

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times and funds proposed to be released under the Rehabilitation Package are utilized for the purpose for which they are sanctioned.

You may devise such other monitoring arrangement as may be deemed necessary to verify that the funds/drawals are made as per the agreed plan and the cash flows, sales and purchase, payments are duly verified."

In other words, the Respondent had undertaken the responsibility to ensure full protection of bank's interest.

- 5.15. The Committee noted that as regards the fact that the letter dated 28.5.1999 was not received by the Respondent, the witness from the Bank had also not refuted the same. Further, it is an admitted fact that the payments to these vendors were also being made earlier prior to the appointment of the Respondent as a monitor and it was not pointed out at any stage that these were bogus firms.
- 5.16. The Committee noted that considering the scope of the appointment which was to fully protect the interest of the Bank at all times indirectly include all responsibility and can be extended to verifying the genuineness of the parties to whom the disbursements of the funds was recommended. The letter of appointment, thus, created a fundamental expectation of such verifications against the monthly fees of Rs. 75,000/- which was on higher side to corroborate such expectation. The Committee also perused the copies of the bills of the firms alleged to be bogus and noted that such bill give broad address of the firm. In none of the bills, neither their phone numbers, fax numbers are appearing nor excise/sales tax/service tax registration, as the case may be, are mentioned. In some cases, even the sales tax and service tax numbers were not there. In the bill dated 24thSept. 1998 the bill heads as "Deshmukh Contractors" and its address is stated but sales tax / service tax registration number were missing. In another bill, dated 17th August, 1998 the bill heads as "Deshmukh Contractor" and the stated address is " Vill Belgundi, Dist. Belgaum – 591 139". In other words, the exact location of the firm was missing in latter bill. Further, the bills give only the name of items and value of bill against each item without stating any quantity or giving other specifications. For instances, oil cost in lakhs was

given but quantity being billed was not mentioned. It is viewed that the unusual aspects of the bills should have raised doubt in the process of verification. The Bank had relied upon the professional caliber of the Respondent. From the above, it was viewed that the findings of the CBI seems to be true that the firms were bogus.

- 5.17. It was accordingly viewed that it is very difficult and illogical to believe that such bogus firms had done all the works genuinely, the bills were not inflated and payments were made only for the value of the works done. If such a proposition is accepted, then the case would not have probably arisen.
- 5.18. It is noted that with reference to issue that the bills were inflated, the Respondent had not been able to categorically and satisfactorily disprove the charges. The defence of the Respondent that the matter was quite old and therefore the Respondent did not keep working papers, whereas the Respondent kept only technical expert's reports is also not acceptable; firstly because the case had started at an early stage and in pursuance of the complaints made by the Central Bank of India, the CBI investigations were on even in the year 2002.
- 5.19. Thus, considering all the facts and circumstances of the case and also upon a perusal of the documents on record, the Committee was of the view that it is a case where the payments were made to the non-existing firms after recommendation of the Respondent. With wide scope of the appointment of the Respondent by the bank and with clear findings about bogus firms, it was not possible to accept that the Respondent was not responsible for any financial misappropriations. Accordingly, in respect of the allegations made against him, the Respondent was found guilty of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

6. The Council considered the Report of the Disciplinary Committee dated 13th June, 2018 alongwith written representations dated nil submitted on 10th January, 2019, dated 14th August, 2019 and 15th August, 2019 received from the Respondent. The Council noted that the Respondent vide e-mail dated 19th September, 2020 communicated that his written

representations are already on record and requested to rectify the errors committed by the Committee which have been pointed out by him and exonerate him.

7. The Council noted that the Respondent in his written representation ,inter-alia, had pointed out that the professional Fees charged by him was only Rs. 12,000/- and not Rs. 75,000/-.The Council on perusal of the copy of the professional bills raised by the Respondent which were on record accepted the contention of the Respondent and opined that monthly fees specified in para 25 of the report of the Disciplinary Committee be read as Rs. 12,000/- and the words used 'which was on a higher side to corroborate such expectation' be not given effect to. The Council upon consideration of the Report of the Disciplinary Committee dated 13th June, 2018 and also the written representation made by the Respondent before it, was of the view that with wide scope of appointment of the Respondent by the bank and with clear findings about bogus firms, maintenance of only the report of the technical experts as part of its working papers by the Respondent it is evident that due diligence had not been exercised by the Respondent while carrying out the assignment. Accordingly, the Council decided to accept the conclusion of the Disciplinary Committee holding the Respondent Guilty of professional misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 read with Section 21 of the said Act.

8. Further, the Council also decided to recommend to the Hon'ble High Court that the Respondent CA. Srinivasan Venkataramani in Re: (M.No.037495) be Reprimanded.

9. The Council further resolved that CA. Atul Kumar Gupta, Chairman of the meeting at the time of consideration of the report be authorised to sign the Finding of the Council in the case, on behalf of the Council.

Certified to be true copy
(White Khanna Secretary)
The Council of the Institute of
Chartered Accountants of India
New Delhi

Sd/-
(CA. ATUL KUMAR GUPTA)
CHAIRMAN