



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/282/2015/DD/256/2015/DC/830/2018]

In the matter of:

Shri R. Gopala Krishna Rao,

Supt. of Police, HoB, CBI, ACB, Visakhapatnam,
1-83-21/4, M.V.P. Colony,
Sector-8,
Visakhapatnam – 530017

..... Complainant

Versus

CA. Boggaram Diwakar Murali Krishna (M.No.214830),

Partner, M/s Punnaiah & Co., (FRN 002798S)
D. No.9-1-87/1, First Floor,
Station Road, Opp. Court Building,
Narasaraopet, Guntur District,
Andhra Pradesh 522 601

..... 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

The following party was present:

1. CA. Boggaram Diwakar Murali Krishna: the Respondent (appeared from ICAI Regional Office at Chennai)

Date of Final Order: 17th September, 2020 through Video Conferencing

Place of Final Order: Gurugram

1. That vide report dated **10th February 2020** (Copy enclosed), the Disciplinary Committee was of the opinion that **CA. Boggaram Diwakar Murali Krishna (M.No.214830)**, was GUILTY of Professional Misconduct falling within the meaning of clause (2) of Part IV of the First Schedule and also under clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 relating to issuance of projected Financial Statements in respect of eight firms based on which he Bank Manager of Indian Bank, Narasaraopet, processed the loan application and sanctioned the loans.

It is noted that, in extant case, the Respondent is held guilty under Clauses (2) and (7) of Part I of Second Schedule which state as under:-

“(2) certifies or submits in his name, or in the name of his firm, a report of an examination of financial statements unless the examination of such statements and the related records has been



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made by him or by a partner or an employee in his firm or by another chartered accountant in practice;

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

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 5th September 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 September, 2020 through video conferencing.

3.

The Respondent appeared before the Committee on 17th September 2020 through video conferencing and made oral submissions before the Committee. He also submitted his Written Representation dated 10th September 2020 wherein he had , inter-alia stated that he had not given any certificate of net-worth and no plant and machinery was required. He further submitted before the Committee to kindly peruse the written submissions mailed by him to the Committee. The Committee perused the same which were received vide e-mail dated 17th September 2020 and noted that only the scanned copy of the certificate dated 7th March 2014 issued by the Chief Manager, Indian Bank, Corporate Office, Chennai, regarding the genuineness of the VAT Registration certificates submitted by the eight firms which stated them to be genuinely registered with Commercial Tax Office, Narasaraopet was submitted by the Respondent.

4. The Committee considered the oral and written submissions made by the Respondent and noted that in the projected financial statements so issued by the Respondent, there was no assumption given there in and thus considering the provisions of SAE-3400, which deals with the projected financial statements was of the view that the Respondent failed to apply professional prudence in preparing the projected statements in question and also willfully aided the misdeeds of his clients and the Bank Manager. The Committee considered the oral and written submissions made by the Respondent and noted that in the projected financial statements so issued by the Respondent, there was no assumption was given there in and there was no plant and machinery which could be given a projected growth of 33 to 40 per cent. The Committee noted that since no basis was being provided for this projected financial statement and thus considering the provisions of SAE-3400, which deals with the projected financial statements, the committee ,accordingly, viewed that the Respondent failed to apply professional prudence in preparing the projected statements in question and also willfully aided the misdeeds of his clients and the Bank Manager.



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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 (2) of Part IV of the First Schedule and also under clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered Respondent CA. **Boggaram Diwakar Murali Krishna (M.No.214830)**, be removed from the Register of members for a period of 1 (one) year.

Sd/-
[CA. Atul Kumar Gupta]
Presiding Officer

Sd/-
[Smt. Anita Kapur]
Member (Govt. Nominee)

Sd/-
[Shri Ajay Mittal, IAS (Retd)]
Member (Govt. Nominee)

Sd/-
[CA. Chandrashekhhar Vasant Chitale]
Member

Place: 17th September, 2020



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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/282/2015/DD/256/2015/DC/830/2018]

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Supt. of Police, HoB, CBI, ACB, Visakhapatnam,
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Versus

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Partner, M/s Punnaiah & Co., (FRN 002798S)
D. No.9-1-87/1, First Floor,
Station Road, Opp. Court Building,
Narasaraopet, Guntur District,
Andhra Pradesh 522 601

..... Respondent

MEMBERS PRESENT:

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

DATE OF HEARING : .26.12.2019
PLACE OF HEARING : ICAI Bhawan, Chennai
PARTIES PRESENT:

Complainant : **Shri R. Gopala Krishna Rao**
Respondent : **CA. Boggaram Diwakar Murali Krishna**
Charges in Brief:-

1.1 Investigation disclosed that the Bank Manager sanctioned and released the loans on the basis of false and fictitious authorization letters purportedly issued by the Company, in the names of the eight firms as mentioned in Para 7.3 of PFO authorizing them to file tenders/bids with NHAI and also on the basis of fake Notice inviting Tenders purportedly issued by NHAI. The Bank Manager processed the loan applications and



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
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sanctioned the loans on the basis of false and fictitious Cost and Means of Finance and projected statements prepared by the Respondent and the Assets and Liabilities statements prepared by the Respondent of the eight borrowers.

1.2 Investigation also disclosed that the Proprietors of the above mentioned eight firms did not have the financial capacity to invest huge amounts as reflected in the Cost and Means of Finance. It has been alleged that the Respondent, without inspecting any documents in support of the financial capacity, at the behest of the Bank Manager and Shri Guda Sridhar Reddy, had prepared the statements

FINDINGS

2. This case is based on the prima facie opinion of the Director (Discipline) wherein he held the Respondent guilty of professional misconduct falling within the meaning of clause (2) of Part IV of the First Schedule and also under clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 which states as under:

“Clause (2) of Part IV of First Schedule:

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he –

(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.

Clause (7) of part I of Second Schedule :

A Chartered Accountant in practice shall be deemed to be guilty of professional misconduct, if he –

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

3. In this case, the Complainant alleged that the Respondent who counter signed the assets and liabilities details in a bank loan application acted negligently resulting thereof, there was a fraud being committed by the borrowers in a criminal conspiracy along with the bank manager of Indian Bank. The Committee noted that there was an Indian Bank application



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
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form which carries a declaration to be given by the borrowers related to the truthness of asset and liabilities submitted in the form of being countersigned by the Respondent. There were 8 borrowers and in all the cases, the facts are same which resulted in overall loss of Rs.11.93 crores to Indian Bank. In the asset side every borrower disclosed a land worth Rs.1.59 crores apart from small value of cash and bank balance of a small value. On being asked by the Complainant on the actual value of land, vis-à-vis value reported, Counsel of the Respondent agreed to administer the entire process one of the borrowers i.e. M/s PVR Construction, Proprietor, Pradeep Babu Reddy.

4. The form which relates to the said borrower is available on C-3 & 24 of PFO which is counter signed by the Respondent. The Counsel submitted that if we credit the amount of cash and bank balance on the balance sheet available on W-62, the same tallies. As far as value of the land is concerned, the Respondent and his counsel submitted that they relied upon on a valuation report available on page W-181 of the prima facie opinion showing a value of Rs.1.59 crore. Here the Complainant argued that the crux of the valuation lies wherein the same land for which the valuation report is issued on 13.05.2013 was purchased a day before with overall value for the purpose of stamp paper was disclosed for Rs.3.88 lakh and accordingly there was only a stamp duty of Rs.100/- was paid. The Committee also noted that on the valuation report issued dated 13.5.2013 which was even that was corrected later on showing the physical visit to the land on 13.5.2013 which contradicted in itself the physical visit to the land, the valuation expert is giving the valuation report on 13.5.2013. More so, the Committee noted the para 4(b) of the valuation report which disclosed the neighbourhood of the land so purchased and found that for all the 8 borrowers except for one the neighbour on both the sides were the same which is practically impossible. The Committee also noted that there is no specific address/khasra no./location identity is given on the valuation report which itself should have created a doubt in the mind of the Respondent. The Committee referred SA-620 wherein there is clear guideline that while relying on the work of expert of professional/auditor has



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to consider not only nature of the subject but also risk of material misstatement significance of expert work and adequacy. In this particular case, two documents i.e. registration deed and the valuation report which were showing a difference in value of Rs.1.55 crore in a single day should have created a doubt in the mind of the Respondent, he should not have counter signed the accuracy of assets of the borrowers.

5. The Committee also noted that the Respondent has issued the projected financial statement though there are no signatures of the Respondent on the same still at the time of hearing when being enquired, he agreed to have issued the projected financial statement, the Committee referred the SAE-3400, which deals with the projected financial statement and laid down the principles that the professional issues such projection who understand the business of nature, laid down the business such projections were estimated. On a glance to the projected financial statement, the Committee noted that there was not even a single assumption has been given in the projected financial statement, further casualness of the borrowers can be concluded wherein in a proprietorship firm, the books on profit is coming out even @ 30% to 40% and for the projected construction business, no Plant & Machinery tools are being reflected in the asset of the firm.

CONCLUSION:

6. In view of the above, non-compliance of SA-620 and SAE 3400, the Committee held the Respondent guilty of professional misconduct falling within the meaning of clause (2) of Part IV of the First Schedule and also under clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Sd/-
(CA. ATUL KUMAR GUPTA)

PRESIDING OFFICER

Sd/-
(SHRI RAJEEV KHER)
GOVERNMENT NOMINEE

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE



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Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

DATE : 10.02.2020

PLACE :New Delhi