



**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-107/16-DD/135/2016/DC/988/2019]**

**In the matter of:**

**Mr. P. Kumar**

Senior Manager (Inspection, Audit & Vigilance)  
Bank of Baroda, Regional Office  
(Chennai Metro Region)  
No.10, CP Ramasamy Road,  
Alwarpet,  
**Chennai – 600018**

**.....Complainant**

**Versus**

**CA. Murli Manohar Lakhotia (M.No.208704)**

No. 108, Rohini Flats,  
Ground Floor,  
Munusamy Salai,  
KK Nagar (West),  
**Chennai - 600 078**

**.....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 also present:**

**CA. Murli Manohar Lakotia: the Respondent (appeared from his personal location)**

**Date of Final Order: 17<sup>th</sup> September, 2020**

**Place of Final Order: New Delhi**

1. That vide report dated **10<sup>th</sup> February 2020** ( copy enclosed), the Disciplinary Committee was of the opinion that **CA. Murli Manohar Lakhotia (M.No.208704)** was GUILTY of Professional Misconduct falling within the meaning of clauses (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to tax audit of Sangam Phone Distributers Ltd ( herein after referred to as 'Firm') for the F.Y.2012-13 wherein the sales figure were inflated to Rs. 21,04,78,956/- and submitted to the Complainant Bank for availing the credit facility.

It is noted that the Respondent is held guilty under Clauses (7) and (8) of Part I of Second Schedule which state as under:-

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

*(8) fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion;*



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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 5<sup>th</sup> 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 17<sup>th</sup> September, 2020 through video conferencing.

3. The Respondent appeared before the Committee on 17<sup>th</sup> September 2020 through video conferencing and made oral submissions before the Committee. He also submitted his Written Representation dated 10<sup>th</sup> September 2020 wherein he, inter-alia, agreed that he had not verified the VAT returns and had not reconciled the books turnover with the VAT returns. He further accepted the mistake done by him and also assured that in future he would follow the professional norms very strictly.

4. The Committee considered the oral and written submissions made by the Respondent and noted that as per audited final accounts certified by the Respondent, turnover of the firm as per the audited final accounts, for the financial year 2012-13 was Rs.21,04,78,956/- and as per VAT returns, it was Rs. 7,17,11,452/-. It is also noted that being Tax Auditor, in Form 3CD, under Clause (4) the Respondent has reported that the firm was **not** liable to pay indirect tax which is contradictory to the fact that the assessee firm had VAT registration number and was liable to pay tax thereunder. Hence, it is evident that due diligence was not exercised by him while carrying out Tax Audit for the A.Y.2013-14

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 clauses (7) & (8) 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 the removal of name of Respondent **CA. Murli Manohar Lakhotia (M.No.208704)** from register of members for a period of 1(one) year beside imposing a fine of Rs. 25000/-.

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. Chandrashekhar Vasant Chitale]  
Member

Place: 17<sup>th</sup> 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-107/16-DD/135/2016/DC/988/2019]**

**In the matter of:**

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No. 108, Rohini Flats,  
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KK Nagar (West),  
**Chennai - 600 078**

**.....Respondent**

**MEMBERS PRESENT:**

**CA. Atul Kumar Gupta, Presiding Officer**

**CA. Amarjit Chopra, Member (Govt. Nominee)**

**CA. Chandrasekhar Vasant Chitale, Member**

**DATE OF FINAL HEARING : 15.10.2019**

**PLACE OF FINAL HEARING : ICAI Bhawan, Chennai**

**PARTIES PRESENT:**

**Complainant: Not Present**

**Respondent: Not Present**



### **Charges in Brief**

1. In this case the Complainant has been filed by Branch Manager, Bank of Baroda against the Respondent CA. Murli Manohar Lakotia alleging as under:
  - a) Fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity.
  - b) Does not exercise due diligence, or is grossly negligent in the conduct of his professional duties,
  - c) Fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion.
2. 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) and Clause (8) of Part I of Second Schedule of Chartered Accountant Act 1949. The said Clause (7) of Part I of Second Schedule states as under:-

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

And Clause (8) of Part I of Second Schedule states as under:-

*“(8) fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion;”*

### **Brief facts of the Proceedings**

3. The hearing earlier took place on 18<sup>th</sup> May, 2019 whereas the Complainant and the Respondent were present and they were put on oath. The Complainant made the charges against the Respondent. On being asked to the Respondent whether he pleads guilty, he replied in negative. The Respondent made his submissions against the charges. After considering all papers available on record and pleadings, the Committee proceeded with the matter.

### **Findings of the Committee**

4. On the matter stated above, the Committee asked the Respondent whether he has verified VAT returns at the time of audit. The Respondent stated that he has verified sales from bills but did not verify VAT returns. He also did not verify VAT figures from



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the website of the sales tax department. It was noted that the Respondent has stated that :

*“Based on the trial balance and other details we have finalised balance sheet and audit report under section 44AB of Income Tax Act 1961, since it was not a VAT audit, we have not verified the VAT Returns at the TN VAT website” You yourself are saying that you have not verified it even looked at it, forget about verifying from the website.”*

5. The Committee directed the Complainant to file his further submissions within 15 days with copy to Respondent. A letter dated 31.5.2019 was submitted by the Respondent. In the interest of natural justice, the hearing was fixed on 15.10.2019 at Chennai. However, neither the Complainant nor the Respondent appeared before the Committee.
6. The Committee decided to proceed ex parte as per rules. The Committee noted that the Respondent is tax auditor for Sangam Phone Distributers Ltd. As per audited final accounts certified by the Respondent, turnover of the firm for the financial year 2012-13, as per accounts subjected to the tax audit by the Respondent is Rs.21,04,78,956/- .Sales turnover as per VAT returns submitted is Rs. 7,17,11,452/-. There is nothing on record to demonstrate that the Respondent had taken note of this difference or sought any explanation thereof. This has resulted into the loss to the Complainant bank containing un-reconciled entries to the tune of Rs.3.90 crores in accounts audited by the Respondent. In view of these facts and circumstances of the case, the Committee held the Respondent guilty of professional misconduct.

**Conclusion**

7. In view of the above findings, and reasoning as stated in above Para, the Committee holds the Respondent **GUILTY** under Clause (7) and Clause (8) of Part I of Second Schedule of Chartered Accountant Act 1949.

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

-Sd-  
(CA. AMARJIT CHOPRA)  
GOVERNMENT NOMINEE

-Sd-  
(CA. CHANDRASEKHAR V. CHITALE)  
MEMBER

**DATE:10.02.2020**



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**PLACE: NEW DELHI**