

CONFIDENTIAL

DISCIPLINARY COMMITTEE BENCH – III (2020-2021)

[Constituted under Section 21B of the Chartered Accountants (Amendment) Act, 1949]

Findings under Rule 18(17) read with Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

File No. : PR/308/16-DD/37/2017-DC/800/2018

In the matter of:

Mr. Y.C. Jain

General Manager & CFO
Indian Overseas Bank,
Balance Sheet Management Department,
Central Office, 763, Anna Salai,
Chennai -600002

.....Complainant

Versus

CA. James K George (M.No. 015017)

M/s James K George & Co.,
Chartered Accountants,
Morning Star Buildings,
2nd Floor,
Kacharipady,
KOCHI -682018

.....Respondent

Members Present :

CA. Atul Kumar Gupta, Presiding Officer
Smt. Anita Kapur, Government Nominee, Member
Shri Ajay Mittal, Government Nominee, Member
CA. Chandrasekhar Vasant Chitale, Member
CA. Manu Agrawal, Member

Date of Final Hearing : 28th September, 2020

Place of Final Hearing : New Delhi

Party present :

**i) Complainant Representative : Sh. K Venkatesh, DGM, IOB
(appeared from their personal location at Chennai)**

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 was prima facie held guilty of Professional Misconduct falling

within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act 1949. The said Clause to the Schedule state as under:-

Second schedule

Part I

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

Brief Background and Allegations against the Respondent:

2. The Complainant has alleged in the extant case that during the course of audit of Adoor Branch (Pathanamthitta District) of Indian Overseas Bank for the year ended 31.03.2014, the Respondent had classified the account of M/s Sandhya Cashew Factory as ‘Standard’ instead of ‘Non-Performing Asset’ (NPA) which was overdue for more than 90 days as on 31st March, 2014.

Proceedings:

3. At the time of hearing on 28th September 2020, the Committee noted that the Complainant’s representative appeared before the Committee from his personal location. Thereafter, he gave declaration that there was nobody present except him in the room from where he was appearing and that he would neither record nor store the proceedings of the Committee in any form. Thereafter, the Committee noted e-mails dated 18th & 21st September, 2020 received from the Respondent wherein he had requested that in his absence the Committee might consider the submissions made by him to take decision on merits. The Committee considered the request of the Respondent and decided to proceed further in the matter.

4. Being first hearing, the Complainant’s representative was put on oath. Thereafter, the Committee asked the Complainant whether he was aware of the charges made against the Respondent. The Complainant agreed to be aware of the charges alleged against the Respondent. The Committee asked the Complainant to make his submissions on the matter. The Committee examined the Complainant in the matter as well as considered the submissions received from both the parties. Based on the documents available on record and after considering the oral and written submissions made by both parties before it, the Committee concluded hearing in the matter.

Findings of the Committee :

5. The Committee noted that the only allegation raised against the Respondent was that he had classified the account of M/s Sandhya Cashew Factory as Standard instead of NPA which remained overdue for more than 90 days as on 31st March, 2014. It further noted the submissions made by the Respondent vide letter dated 21st September, 2020 wherein he had stated that the matter was related to the Audit Report made on financial statements of the period ended on 31.03.2014 in respect of Adoor Branch (Pathanamthitta District) of Indian Overseas Bank. He submitted that the matter was discussed at the level of the Regional Manager, Branch Manager and the borrower and from the documents placed on record, it was noted from the letter dated 5th April, 2014 **(W-4)** regarding clarification on Bills finance by the Complainant Bank that since advance payment was against export bill, such finance was valid for a period of six months and hence the Bank considered that the bill outstanding upto 31.12.2013. Thus, the account was not to be treated as overdue.

6. The Committee in this regard perused e-mail dated 16th April, 2014 as available on record **(W-6)**, from the Senior Manager of the Complainant Bank and noted that assurance was given to the Respondent that the entire excess amount as on 31.03.2014 would be cleared on or before 20th May, 2014 when it stated as reproduced below:

“This has reference to the excess amount outstanding over the Bills limit sanctioned to M/s Sandhya Cashew Factory. As per the discussion we had with our higher authorities and the borrower, we confirm that the borrower will bring the bills outstanding within the limit sanctioned and the entire excess amount as on 31.03.2014 will be cleared on or before 20.05.2014.”

7. The Committee further noted that on being specifically asked from the Complainant Bank whether the invoice for the alleged accounts was related to the Export or not to which he replied in affirmation that it was an advance payment against the export bill having the validity of Six months. Thus, the Committee was of the considered view that since an advance payment was made against an export bill, such finance was valid for a period of six months and thus the day when the Respondent submitted the report, there was no question of classifying that account as NPA. Accordingly, the Committee was of the opinion that no case was made out against the Respondent in the extant matter and he was held not guilty of the alleged charge.

Conclusion :

8. 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 the Second Schedule to the Chartered Accountants Act, 1949.

Order:

9. Accordingly, in terms of Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee ordered closure of the extant case against the Respondent.

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

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

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

Sd/-
[CA. Chandrashekhar Vasant Chitale]
Member

Sd/-
[CA. Manu Agrawal]
Member

Date: 22nd January, 2021
Place: New Delhi