

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/297/17-DD/327/2017-DC/1140/2019

In the matter of:

Thiru. P.A. Chenniappan,

General Manager,

The Erode District Central Cooperative Bank Ltd.,

1 Head Office, Bhavani Main Road,

Erode-638003

Tamil Nadu

..... Complainant

Versus

CA. M. Ramesh (M. No.206659)

M/s Narayanan & Ramesh

RM Nivas-Upstairs, Shree Nagar,

Perundurai Road, Thindal Post

Erode-638012

Tamil Nadu

..... 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

The following parties were also present :

1) Counsel for Complainant: Adv. C. Yoganathan

2) Respondent : CA. M. Ramesh

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 Government of India announced the Agricultural Debt Waiver and Debt Relief Scheme (hereinafter referred to as ‘ADWDRS’) in the budget of 2008-09 for agricultural and agri allied activities for rebate/waiver of loans to ‘marginal and small farmers’ and ‘other farmers’ by Scheduled Commercial Banks, Regional Rural Banks, Cooperative Credit Institutions (including Urban Cooperative Banks) and Local Area Banks based on the guidelines for Implementation of the Scheme(**C-8 to C-21**). In view of the aforesaid Scheme, on 25th July 2008, Erode District Central Co-operative Bank (hereinafter referred to as ‘**the Complainant Bank**’) (**C-22& C-115**) appointed the Respondent to audit the ADWDRS 2008 beneficiaries list prepared by Primary Agriculture Co-op. Credit Societies (**PACCS**) [(**C-24 to C-25**)]. It was stated that the Respondent conducted the audit of the list prepared by PACCS and Certified the same vide letter dated Nil (**C-23**) and stated that they had completed the audit of all PACCS beneficiaries list with a 100% audit coverage. Accordingly, based on the said Audit, the Complainant Bank submitted the proposal of waiver claim to NABARD. However, when a team of officers from the office of the then Principal Accountant General (Civil Audit), NABARD, Chennai, tested the report, certain defects were found. Against the aforesaid background, the following discrepancies were noted which the Respondent was alleged to report:

a) That one farmer Shri Marappa Gounder was in possession of land to the extent of 3.17.00 hectares (7.8 acres) as per the revenue record (**C-38 to C-40**). Similarly Shri.N.K.Jawahar and Shri N.D.Jayammal were in possession of land to the extent of 5.42 Acres. It was alleged that since these farmers had land of more than 5 acres hence, as per the scheme these farmers were to be classified as ‘other farmers’ and they were eligible for a debt relief @ of 25% of the eligible amount subject to the condition that they had paid the balance of 75% of the eligible amount. However, they were wrongly classified by PACCS as small farmers in the beneficiary list and the entire amount of the debt for the said farmers was waived (**C-24 to C-25 & C-61 to C67**). Hence the list was wrongly audited by the Respondent.

b) That three farmers in particular, namely Shri Palanisarny, ShriKaruppa Gounder and Shri N.K. Palanisamy who were sanctioned loan of Rs. 36902/-, Rs.15037/- and Rs. 23,998/- respectively were wrongly given full debt waiver(**C-124**)which was in violation of Para No.4, 4.1, (a), (1) of the scheme(**C-10 to C-11**) and

c) That in the beneficiaries list of Kavindapadi PACS ,Shri.K.K.Murugan had backend subsidy of Rs.2300/- for Agri allied activity loan and this was ineligible for waiver claims. However, he was wrongly given debt waiver which was ignored by the Respondent while conducting audit.

Brief facts of the Proceedings:

3. On the day of hearing i.e. 28th September, 2020, the Committee noted that the Counsel for the Complainant and the Respondent were present in person before it. Thereafter, they gave a declaration that there was nobody except them in their respective room from where they were appearing and that they would neither record nor store the proceedings of the Committee in any form. Thereafter, the Committee asked the Respondent whether he wished the charges to be read out or it could be taken as read. The Respondent stated before the Committee that he was aware of the charges made against him and the same might be taken as read. On being asked, as to whether the Respondent pleaded guilty, the Respondent did not plead guilty and opted to defend his case.

Thereafter, the Counsel for the Complainant presented the allegations raised against the Respondent. The Committee, thereafter, examined the Counsel for the Complainant in the matter. The Respondent made his submissions on the allegations and was examined by the Committee on the facts of the case. The Respondent, thereafter, made his final submissions in the matter.

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:

4. At the outset, the Committee noted that the Complainant had raised three allegations in the extant matter. However, the Director (Discipline) in his *Prima Facie* Opinion dated 8th July 2019 had held the Respondent *prima facie* guilty of

allegation no 2 only and exonerated the Respondent for allegation nos. 1 and 3. The Committee, accordingly, conducted the enquiry in respect of allegation no. 2 only whereby it was alleged that three farmers in particular, namely Shri Palanisarny, Shri Karuppa Gounder and Shri N.K. Palanisamy who were sanctioned loan of Rs. 36902/-, Rs.15037/- and Rs. 23,998/- respectively were wrongly given full debt waiver **(C-124)** which was in violation of Para No.4, 4.1, (a), (1) of the Scheme **(C-10 to C-11)** which the Respondent failed to report.

5. The Committee noted the submissions made by the Respondent vide his letter dated 23rd September 2020 wherein he had submitted that there were three relevant conditions for an account to become eligible for debt relief – Disbursal before 31/03/2007, Overdue before 31/12/2007 and Outstanding as on 29/02/2008. In all the 3 accounts, the Respondent submitted, condition no. 1 and 3 were satisfied and the extant matter was related to condition No.2 only i.e., whether the three loan accounts were overdue as on 31/12/2007 or not. He had sought clarification from the Secretary of the PACS regarding due date on the Kisan card register. He had relied on the under undertaking *given* by the Secretary of the PACS that they would correct Kisan Card Register. Further, he stated that in the translation letter given for the original Kisan Card as given by the complainant was 'Due Date', whereas in the original Kisan Card submitted carried the word in Tamil “Mudivu thethi” for which the correct English translation was “Expiry date or Validation date”.

Thus, the Respondent argued that the reliance of the Director (Discipline) on the due date as per the Kisan Card Register was not conclusive. The Respondent also stated that the error was reported in three accounts out of 2549 accounts certified by him. So, considering the concept of materiality both in respect of the number of accounts involved and the quantum of advances involved together with the fact that poor availability of internet infrastructure during the year 2008-09 particularly in a place like Erode be considered while forming an opinion in the matter.

6. The Committee noted that the extant matter had arisen on account of error in usage of the word in Tamil language and that the Respondent had also brought on record the letter of the Bank wherein it had assured to rectify the mistake by correcting Kisan Card Register. The Committee also noted the second aspect submitted by the Respondent as regard the circular issued by NABARD whereby he submitted that the said circular could neither be accessed by the Respondent as

there was poor/ no internet facility at his place nor was he provided the same by NABARD duly enclosed with the appointment letter. Thus, in light of above, the Committee was of the opinion that it was onus on the Bank to provide applicable Circulars to the Respondent and that due to practical difficulty he could not made himself aware of the said NABARD circular which was circumstantial and not deliberate. The Committee accordingly decided to extend benefit of doubt to the Respondent and hold him not guilty of the charge alleged in the extant matter while advising him to be more cautious and diligent for particular aspect of keeping available with him the relevant circulars and documents for future assignments.

Conclusion:

7. 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:

8. 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