



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

[PPR/18/S/13/DD/18/INF/14/DC/539/2017]

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. : [PPR/18/S/13/DD/18/INF/14/DC/539/2017]

In the matter of:

CA. Satindra N. Rao (M. No. 022860)

14-1-52, Karangalpady
Kudmal Ranga Rao Road
MANGALURU-575003

....Respondent

Members present:

CA. Atul Kumar Gupta, Presiding Officer

Smt. Anita Kapur, Member (Govt. Nominee)

Shri Ajay Mittal, Member (Govt. Nominee)

CA. Manu Agrawal, Member

Date of Final Hearing: 23rd January, 2021

Place of Final Hearing: New Delhi

1. Vide report dated 16.12.2019 (**copy enclosed**), the Disciplinary Committee was of the opinion that **CA. Satindra N. Rao (M. No. 022860)** was GUILTY of Professional Misconduct falling within the meaning of Clause (7) and Clause (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 with respect to various borrowings taken by the auditee, M/s Hotel Poonja International Pvt. Ltd. (hereinafter referred to as the '**Company**') which were not only overdue but had also had become the Non Performing Assest (NPA), more so the process of CDR i.e. Corporate Debt Restructuring was also attempted at time. The allegations on the Respondent was that in spite of such a huge outstanding amount payable to the bank, that is appearing in the financial statements and schedules thereof, the information regarding its default was neither reported in terms of the requirement of Schedule VI to the Companies Act, 1956 nor as per CARO, 2003 requirement. Accordingly, the Respondent is held guilty of Clauses (7) and (8) of Part I of Second Schedule which states as under:-

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



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(8) fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion;”

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 4th January, 2021 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 23rd January, 2021.
3. The Committee noted that neither Respondent nor his authorized representative was present before it for hearing. The Committee further noted that Respondent vide his communication dated 14th January, 2021, stated that due to COVID 19 threat and need to maintain social distance he could not appear in person and that it was also not feasible for him to attend hearing through video conferencing also due to his lack of exposure to VC technology and circumstances prevailing in his office/residence. Accordingly, he sought adjournment till the time the Bench held any meeting for physical hearing at Bengaluru, Chennai and Hyderabad. The Committee noted that the matter was fixed for hearing earlier too on 13th August, 2020, 17th September, 2020 as well as 7th December 2020 when he had sought also adjournment requesting the Committee to allow him to appear in person. At the present hearing, the Committee had granted him the opportunity to appear before it through either alternatives of appearing in person or through video conferencing still he failed to appear before it. The Committee also noted that he was also informed about its decision of providing last opportunity to either appear before it or provide his written submission in respect of the same. In case, if he failed to comply with it, then the matter be taken ex-parte. It was, accordingly, noted that sufficient opportunity had been given to the Respondent as envisaged under proviso to Rule 19 of CA Rules, 2007 and thus decided to pronounce order in the matter based on information as available on records.
4. The Committee noted that as available on record the Respondent had submitted that since all these borrowings were outstanding from very old period even from year 2002 when he was first time engaged as auditor by the said auditee and that the bank was also not charging any interest or imposing any penalty on the auditee, he did not stipulate any default in repayment of principal or interest. Accordingly, in his opinion, the Company had not defaulted in repayment of dues to a financial institution or bank during the alleged period.



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5. The Committee noted that as on respective balance sheet dates, the alleged borrowings as taken by the auditee were not only overdue but there was a series of default in repayment which had led to the account of auditee borrowing becoming NPA and even the auditee was looking to have CDR being initiated. In view of the said facts, the Committee noted that the Respondent was under an obligation to report based on the facts available with him. The fact that the borrowings account of auditee had become non-performing asset for the bank was sufficient to conclude that the auditee had defaulted in repayment of borrowings and accordingly, the Respondent was required to report about the said fact in accordance with the requirements of Schedule VI to Companies Act, 1956 and CARO, 2003. However, the Respondent had reported that “the company has not defaulted in repayment due to a financial institution or bank during the year” in pursuance to the requirements of CARO, 2003 and omitted to report about the default in the schedule to the balance sheet thus contravened the requirements of both CARO 2003 and Schedule VI to Companies Act, 1956.
6. The Committee thus viewed that the misconduct on the part of the Respondent has been held and established within the meaning of Clause (7) and Clause (8) of Part I of Second Schedule to the Chartered Accountant Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered that the name of the Respondent CA. Satindra N Rao (M.No. 022860) be removed from the register of members for a period of 01 (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. Manu Agrawal]
Member
(approved & confirmed through e-mail)

Date: 23rd January, 2021



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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. : [PPR/18/S/13/DD/18/INF/14/DC/539/2017]

In the matter of:

**CA. Satindra N. Rao (M. No. 022860) in Re:
14-1-52, Karangalpady
Kudmal Ranga Rao Road
MANGALURU- 575 003**

.....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 : CA. Satindra N. Rao (Respondent)

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 is guilty under Clause (7) and (8) of Part I of the Second Schedule of Chartered Accountant Act 1949. The aforesaid Clause (7) of the Second Schedule states as under :-



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

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

“(8) fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion;”

2. This case which was initiated with the complaint along with other documents received from Shri Sandeep Vrat, COO & Manager, M/s Reliance Asset Reconstruction Company Limited (hereinafter referred to as “the Informant”) containing allegations against CA. Satindra N. Rao. Later on, it was treated as “information” within the meaning of Rule 7 of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.
3. The present case lead to the allegation on the Respondent who certified/audited the financial statement for the financial year 2009-10, 2010-11 and 2011-12 and certified that “the company has not defaulted in repayment due to a financial institution or bank during the year”.

Brief facts of the Proceedings:

4. On the day of hearing i.e. 15/10/2019, CA. Satindra N. Rao (the Respondent) appeared before the Committee. The Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wishes the charge to be read out or it can be taken as read. The Respondent stated before the Committee that he was aware of the charges made against him and same may be taken as read. On being asked to the Respondent whether he pleads guilty, he replied in negative. Thereafter, the Committee sought whether he wishes to proceed with his defence. Thereafter, the Respondent placed his defence. After considering presentation by the Respondent and all



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papers available on record, the Committee decided to proceed with the matter.

Findings of the Committee

7. The Committee noted that the Respondent appeared before this Committee and submitted there is no lapse on his part. The Committee found that the entire issue relates to various borrowings taken by the auditee M/s Hotel Poonja International Pvt. Ltd. which are not only overdue but also become the Non Performing Asset (NPA), more so the process of CDR i.e. Corporate Debt Restructuring was also attempted at time. The allegations on the Respondent was that in spite of such a huge outstanding amount payable to the bank, that is appearing in the financial statements and schedules thereof, the same were not being reported as per the Schedule VI requirement.
8. The Committee noted the oral submission of the Respondent wherein he submitted that since all these outstanding balances are continuing from very old period even from year 2002 when he first time engaged as auditor for the said auditee and since the bank is not charging any interest or imposing any penalty on the auditee, he did not stipulate any default in repayment of principle and interest, accordingly in his opinion, the Company has not defaulted in repayment of dues to a financial institution or bank during the alleged period.
9. The Committee noted that as per the revised Schedule VI, the disclosure requirement specified under clause (7) of Part C of para 6 under long term borrowings.

“Period and amount of default in repayment of due providing break of principle and interest shall be specified separately in each case”

and while reporting and the auditee, is a Company registered under the Companies Act, 1956. The requirement of Companies (Auditor’s Report) Order, 2003, require the disclosure of any default under **clause 4 (iii) of CARO**, the auditor was supposed to disclose any default in repayment of due.

10. The Committee also noted that various borrowings taken by the auditee are not only overdue but there is a series default in repayment which leads to the borrowing becoming NPA and even the auditee is looking to have CDR being initiated. In view of the facts, it was more necessitated on the part of the auditors



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not only to disclose such default as required under 'Schedule VI' and 'CARO', but also review the entire operation of the company with prospective of a true and fair view.

Conclusion

11. Thus, upon consideration of all facts, circumstances, record and law, the Committee is of the opinion that the Respondent not only failed in exercising due diligence but also he was grossly negligent in reporting such voluminous defaults. Further, the Respondent also failed in obtaining the sufficient information which was necessary for expressing his opinion which was material in nature. In terms of the reasoning as above, in the considered opinion of the Committee, the Respondent is held **GUILTY** in under Clause (7) and Clause (8) of Part I of Second Schedule to the Chartered Accountant Act, 1949.

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

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE

Sd/-
(CA. CHANDRASEKHAR VASANT CHITALE)
MEMBER

DATE : 16th December, 2019
PLACE : New Delhi