



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

[PR/99/2015-DD/99/2015/DC/644/2017]

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. : [PR/99/2015-DD/99/2015/DC/644/2017]

In the matter of:

Ms. M. Roopa IPS,
Superintendent of Police
Central Bureau of Investigation,
Anti Corruption Branch,
Shastri Bhawan, Haddows Road,
CHENNAI - 600 006

.....Complainant

Versus

CA. B. Balasubramanian (M. No.024837)
Flat No. 7, Buckingham Terrace
1st Floor No.61
MC Nichols Road Chetpet
CHENNAI - 600 031

.....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
CA. Manu Agrawal, Member

Date of Final Hearing : 7th December, 2020 through Video Conferencing

Place of Final Hearing : New Delhi

1. That vide report dated 10th February 2020(Copy enclosed), the Disciplinary Committee was of the opinion that **CA. B. Balasubramanian (M. No.024837)** was GUILTY of Professional Misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to statutory audit of M/s. Capture Systems Private Limited(herein after referred to as the 'Company') for the F.Y. ending 31st March 2005 to 31st March 2009 which was conducted without verification of books of accounts of the Company and thus the Financial Statements of the Company certified by him were false and fabricated and also the net worth statement prepared and attested by the Respondent was false and fabricated.

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



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“(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 27th November 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 7th December 2020 through video conferencing.

3. The Committee noted that the Respondent vide his email dated 5th December, 2020 expressed his inability to attend hearing since he was suffering Covid-19. He also stated that being 70 Years old, he had other age-related problems and dependent on his professional income only. Further, he mentioned that he had also given his written submissions to all the Committee findings. In the absence of any adjournment request from the Respondent, the Committee decided to proceed in the matter. The Committee considered the written submissions dated 5th December 2020 as made by the Respondent, wherein he, inter-alia, submitted that the Complainant had painted an incorrect picture that the bank had lost Rs. 20 Crores whereas the amount disbursed/outstanding was around Rs. 9 Crores only which was evident from the demand letter of the Bank dated 23rd January 2012.

4. The Committee considered the oral and written submissions made by the Respondent and noted that the Bank Statements of the Company wherein the total amounts received in the account was only to the tune of Rs.3crores compared to the turnover of Rs.40 Crores. The Committee also noted the submission of the Respondent that no Service Tax, no VAT, no TDS were applicable to the said Company which was not acceptable in the absence of any document to support the same. Considering the provisions of SA 250 (Consideration of Laws and Regulations in an Audit of Financial Statements), the Committee was of the opinion that the Respondent ought to have qualified the Audit Report which the Respondent failed to do so.

5. In respect of net worth statement as on 31.03.2009, the Committee noted that the Respondent had valued immovable assets without any valuation reports. The Respondent had failed to bring on record any document based on which the immovable assets were assessed by him for issuing the net worth certificate. Further, it was noted that neither the amount of loan taken against the said immovable property was reduced to determine the net worth nor had the Respondent mentioned it in the said net worth statement which had rendered the amount of net worth certified as incorrect.



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6. 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 (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 the removal of name of Respondent **CA. B. Balasubramanian (M.No.024837)** from Register of Members for period of 1(one) year along with a fine of Rs. 50,000/- (Rupees Fifty Thousand Only).

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

Sd/-

[CA. Manu Agrawal]
Member

Date: 7th December, 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/99/2015-DD/99/2015/DC/644/2017]

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1st Floor No.61
MC Nichols Road Chetpet
CHENNAI - 600 031
.....Respondent

MEMBERS PRESENT:

CA. Atul Kumar Gupta, Presiding Officer
CA. Amarjit Chopra, Government Nominee,
CA. Rajendra Kumar P, Member
CA. Chandrashekhar Vasant Chitale, Member

DATE OF FINAL HEARING : 29.07.2019

PLACE OF FINAL HEARING : ICAI Bhawan, Chennai

PARTIES PRESENT:

Respondent : CA. B. Balasubramanian
Counsel for the Complainant : CA. K. Ravi



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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 (2) of Part IV of the First Schedule and Clause (7) and Clause (8) of Part I of Second Schedule of Chartered Accountant Act 1949. The said Clause (2) of Part IV of the First Schedule states as under:-

“(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.”

And 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;”

2. This matter was filed by the CBI, Anti-Corruption Branch, Chennai, The allegation of the Complainant that the Respondent CA B. Balasubramaniam was the statutory auditor of M/s. Capture Systems Private Limited, Chennai and he had issued false and fabricated Profit & Loss statements and Balance Sheet of the said Company knowing fully well that they were fake. He also prepared auditor's report tailor made to suit the needs of the Company without verifying any background of any documents. The Complainant also alleged that the Respondent with dishonest intension suppressed many vital information like details of Sundry Creditors, Sundry Debtors, Inventories, cost of material consumed while certifying the balance sheets. And the Respondent also prepared and attested false net worth statement of the Directors of the Company knowing fully than that net worth of these individuals is much less than what is being certified by him. The Company using these false and fabricated statements obtained trade credit of Rs. 24 crores from the United Bank of India and is not repaying the same.

Brief facts of the Proceedings

3. On the date of hearing i.e. 29/07/2019, the Committee noted that the Respondent along-with Counsel was present and appeared before it. The office apprised the Committee that there is no intimation from the Complainant,



however, notice of this meeting intimating date, time and venue has been duly served upon him as per speed post acknowledgement.

Based upon papers/documents available on record, the Committee decided to proceed ex-parte the Complainant.

The Respondent was out on oath and stated that he is aware of the charges against him. On being enquired by the Committee, the Respondent pleaded not guilty and wish to defend the charges.

The Committee directed him to make his submissions. In reply to this, the Respondent/Counsel submitted that he has already filed detailed reply in respect of charges vide letter dated 12/02/2018.

Thereafter recording the submissions of the Respondent, the Committee concluded the hearing in the captioned matter with directions that he may file final submissions within two weeks' time.

Findings of the Committee

4. The Committee notes that the financial statement in question is for the year 2008-09. The turnover during the said year was about Rs.40.24 cores. The Company, Capture System Private Limited was engaged in the business of taking sub-contract on turnkey projects of construction of factories.
5. The Committee directed the Respondent to submit Service Tax and Sales Tax returns of the said Company. The Respondent replied that since it is sub-contract no such requirements are applicable. However, it is the Committee view that during the year in question, both Sales Tax (VAT) and Service Tax were applicable. The Company in question must have registered for VAT as well as Service Tax for the turnover of Rs. 40 crores.
6. The Committee wanted to know about the details of Tax Deducted at Source under Income Tax Act. The Respondent submits that he was only the Statutory Auditor of the Company and did not conduct tax audit nor he filed income tax returns of the said Company.
7. The Committee brought to the notice of the Respondent on SA 250 (Consideration of Laws and Regulations in an Audit of Financial Statements). The Respondent replied that since he has not conducted the Tax Audit, no TDS details were furnished. The Committee brought to the notice of the Respondent that in such a scenario, he must have qualified the Audit Report, which the Respondent failed to do so. In short, the Respondent submits that there is no



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Service Tax, no VAT, no TDS are applicable to the said Company which facts are difficult to believe.

8. The Committee questioned the Respondent by drawing his attention him to page 'C-54' of the Prima-Facie Opinion (PFO) states as under:-

Clause No.6 of the Significant Accounting Policies is reproduced below:-

"The Company has not started with any commercial activities during the year and no provisions were made for income tax since there is no income"

Further, it is noticed that the financial statement attested by the Respondent includes the turnover and net profit to the tune of Rs.38.49 lakhs and Rs.98.43 lakhs respectively. The Committee also brought to the notice of the Respondent, the Bank Statements wherein the receipts in the Banks are only to the tune of Rs.3 crores compared to the turnover of Rs.40 crores.

9. The Committee drew the attention of the Respondent to page C-70 of the PFO reproduced as below:-

B. BALASUBRAMANIAN, B.Com., F.C.A.,
CHARTERED ACCOUNTANT

52, North Mada Street, 1st Floor,
Nungambakkam, Chennai - 600 034.
Phone : 2822 8747
E-mail : auditor_bala@yahoo.com

P.K. ANBU

Date : 04.01.2010

No. 7/8, Anu Garden, Balaji Avenue, Seekarayapuram, Kovur, Chennai - 602 101.

Net Worth Statement as on 30.03.2009

	Amount
A) Immovable Assets:	
1. Flat at No. 90/93, Ponniamman Koil St, Jacob Colony, Madipakkam, Chennai - 600 091	20,00,000
2. Flat at No. 7, Srinagar Colony, South Mada Street, Chennai - 600 015.	60,00,000
3. House: No. 7, Bajana Koil 2 nd Street, Choolaimedu, Chennai - 600 094.	60,00,000
4. House: VOC Street, Nemili Cherry, Chennai	12,00,000
5. House: Neelankarai, Chennai	60,00,000
	2,12,00,000
B) Movable Assets:	
1. Car - Honda City	3,00,000
2. Car - Lancer	3,50,000
	6,50,000
C) Investments:	
1. Capture Systems Pvt Ltd - Share Capital	38,00,000
2. Capture Systems Pvt Ltd - Share Advance	75,00,000
	1,13,00,000

Total Net Worth as on 30.03.2009

Rs. 3,31,50,000/-

B. BALASUBRAMANIAN
CHARTERED ACCOUNTANT
52, NORTH MADA STREET,
1ST FLOOR, NUNGAMBAKKAM,
CHENNAI - 600 034.

10. In the net worth statement as on 31.03.2009 the Committee notes that the Respondent has valued immovable assets without any valuation reports on



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record. It is the Respondent's reply that a loan was taken against the said immovable property and hence in his opinion such a report was not required.

11. The Committee pointed out to the Respondent that loan amount must have been reduced from the net worth and the Respondent did not make any mention in the said net worth statements. Similarly, the Respondent has valued immovable assets at Rs.2.12 crores and the basis of the valuation is not favorable to him.
12. The Committee finds that net worth statement given by the Respondent are not based on any valuation reports nor the Respondent submitted any evidence to prove basis of the amount of the valuation adopted by him in the net worth statement.
13. The Complainant has charged the Respondent with dishonest intension, fabrication, and tailor made audit report and suppressing the vital information with mala-fide intention. The Complainant has not brought on record any material evidence to prove this charge.

Conclusion

14. In view of the above findings, and reasoning supra, the Committee is of the view that the Respondent has been grossly negligent while performing his professional duties and did not exercise due diligence. Accordingly, the Committee is of the considered opinion, that the Respondent is **GUILTY** under Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 and do not find merit in holding him guilty under Clause (2) of Part (IV) of First Schedule as well as Clause (8) of Part (I) of Second Schedule to the Chartered Accountants Act, 1949.

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

Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT

NOMINEE

Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER

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

DATE: 10-02-2020
PLACE: New Delhi



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