



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/229/2014-DD/307/2014/DC/716/2017

In the matter of:

**CA. Umesh Sharma,
Chief General Manager (Internal Audit)
MMTC Ltd.
Core – 1, Scope Complex,
7th Institutional Area, Lodhi Road,
NEW DELHI – 110 003**

.....Complainant

Versus

**CA. V. Nagarajan (M.No.024450)
No. 7, III Extension, 7th Main Road
New Colony, Chromepet
CHENNAI – 600044**

..... Respondent

Members present:

**Smt. Anita Kapur (Presiding Officer & Member (Govt. Nominee))
Shri Ajay Mittal, Member (Govt. Nominee)
CA. Chandrashekhar Vasant Chitale, Member**

**Date of Final Hearing: 8th October 2020 through Video Conferencing
Place of Hearing: New Delhi**

Party Present:

CA. V. Nagarajan (M.No.024450) – Respondent

1. Vide report dated **10th February, 2020 (copy enclosed)**, the Disciplinary Committee was of the opinion that **CA. V. Nagarajan (M.No.024450)** was **GUILTY** of Professional Misconduct falling within the meaning of Clause (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 with respect to the allegations relating to internal audit of Regional Office-Chennai of MMTC Ltd. for the financial year 2007-08 which was conducted by the Respondent. It has been alleged that the Respondent had failed to verify the following leading to deficiencies which were not reported in his internal audit report due to which MMTC had suffered huge losses:
 - 1.1 The Respondent was required to check booking of sales and purchases specifically regarding bullion, but the Respondent had not done the same.
 - 1.2 The Respondent was required to check the annual accounts schedule specifically forward cover. There were transactions in bullion for which forward covers were not taken and accounting of the same was not spelt in the report.
 - 1.3 The Journal voucher and debit credit notes were alleged to have been passed without any justification/details/supporting documents which remained unchecked by the Respondent.
 - 1.4 Certain discrepancies were pointed out by the Special auditor which the Respondent failed to report.

It is noted that the Respondent is held guilty under Clause(7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 as per which the Respondent:



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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 25th September, 2020 addressed to him thereby granting him an opportunity of being heard in person and/or to make a written representation before the Committee on 8th October, 2020 through video conferencing.

3. The Respondent appeared before the Committee on 8th October 2020 through video conferencing from his personal location, and requested the Committee to decide the case based on his written submissions made before it. The Committee in light of the same, accordingly, considered the written submissions dated 28th September, 2020 available on record. It was noted that the Respondent has defended his matter on the plea that the Complainant had not brought on record the specific instances leading to allegations made against him and that he was neither provided a copy of the Special Audit Report nor he was asked by the Special Auditor to provide any explanation. Further, he pointed out about BTS not operating effectively and argued on materiality basis.

4. The Committee noted that the Complainant has pointed out many discrepancies which indicate that the Respondent in his capacity as an internal auditor had failed to carry the verification of the alleged nature of the transactions properly. Moreover, the Respondent has failed to adduce a single piece of evidence in his defense which could have negated the charges of the Complainant. Even the copies of his working papers called for from him under Rule 8(5) were not provided by him. Considering the Report of the Disciplinary Committee dated 10th February, 2020, it was viewed that there are sufficient evidences available which demonstrate the gross negligence /lack of due diligence exercised by the Respondent.

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 Clause (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances case as aforesaid, ordered the removal of name of Respondent CA.V.Nagarajan (M.No.024450) from the Register of Members for a period of 2(two) years.

Sd/-

[Smt Anita Kapur]

Presiding Officer & Member (Govt. Nominee)

Sd/-

[Shri Ajay Mittal]

Member, (Govt. Nominee)

Sd/-

[CA. Chandrashekhar Vasant Chitale]

Member

Date: 8th October, 2020



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CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2019-2020)]

**[Constituted under Section 21B of the Chartered Accountants 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/229/2014-DD/307/2014/DC/716/2017]

In the matter of:

CA. Umesh Sharma,
Chief General Manager (Internal Audit)
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Core – 1, Scope Complex,
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.....Complainant

Versus

CA. V. Nagarajan (M.No.024450)
No. 7, III Extension, 7th Main Road
New Colony, Chromepet
CHENNAI – 600044
Respondent

.....

MEMBERS PRESENT:

1. CA. Amarjit Chopra, Government Nominee (In Chair)
2. CA. Rajendra Kumar P, Member
3. CA. Chandrashekhar V. Chitale, Member

DATE OF FINAL HEARING : 03.07.2019
PLACE OF FINAL HEARING : ICAI, CHENNAI

PARTIES PRESENT:

**Complainant's representative : Shri Deepak Dua, AGM (Fin), MMTC,
Chennai**

Respondent : CA. V. Nagarajan

Counsel for Respondent : CA. R. G. Rajan

Charge in brief:-

1. The Charges in which the Respondent was prima facie held guilty are as under:-



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- 1.1 The Respondent was required to check booking of sales and purchases specifically regarding bullion, but the Respondent has not done the same.
- 1.2 The Respondent was required to check the annual accounts schedule specifically forward cover. There were transactions in bullion for which forward covers were not taken and accounting of the same was not spelt in the report.
- 1.3 The Journal voucher and debit credit notes were passed without any justification/details/supporting documents which remained unchecked by the Respondent.
- 1.4 Certain discrepancies have been pointed out by the Special auditor which were not reported by the Respondent.

Brief of Proceedings :

2. The Committee noted that authorised representative of the Complainant was present.
 - 2.1 On other side, the Respondent along-with Counsel was present and appeared before it. As this case was part heard on 05/06/2019, both the parties submitted their documents before the Committee.
 - 2.2 The Committee directed the Respondent/counsel to proceed with defense. The Counsel for the Respondent made final submissions.
 - 2.3 After recording the submissions of the Respondent/Counsel, the Committee concluded the hearing in captioned matter.

FINDINGS :

3. The findings of the Committee are as under:-
 - 3.1 The Committee notes that there are three Complainants. The first Complainant is Director Finance MMTC Ltd. -Vs.- M/s B Purushottam & Co. The second complaint is filed by Shri S. Vellaipandi, Superintendent of Police, Central Bureau of Investigation Vs. CA. B.S. Purushottam and this one is CA. Umesh Sharma, Chief Manager (Internal Auditor), MMTC -Vs.- CA. V. Nagarajan. In the first complaint filed by MMTC, the Complainant has not by name mentioned any partner of the firm but the said Complainant is filed against the name of the firm vide letter dated 10.2.2014 CA. KVNS Kishore [M. No.



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206734] has informed the Director Discipline that he is the person answerable to the said Complaint and thus he is considered as a Respondent. The second case filed by the CBI is against CA. B.S. Purushottam and thus a Respondent in this matter. The third and present case is filed against the firm i.e. M/s R. Venugopalan & Associates and the Respondent declared himself as member answerable vide letter dated 31st March, 2016 before Director (Discipline) and thereafter filed duly verified written statement on the charges of the Complaint.

3.2 So far as the first allegation against the Respondent that he was required to check the booking of sales and purchases specifically with regard to the bullion and the Respondent had not done the same.

3.2.1 Upon perusal of scope of work of internal audit, the Committee observed that vide S.No.1 of the audit programme, internal auditor has to scrutinize all the contracts for purchase and sale of commodities. It is further observed that CA Firm, Venkat & Rangaa has issued Special audit report for the year 2007-08, wherein various observations have been made regarding verification of Purchases and sales as under:

1. *Purchase and sales booking not done as per the Accounting policy of the Company and both are overstated.*
2. *Bullion Drill instruction have not been followed in several cases.*
3. *To satisfy the customers' needs to take input credit, invoices have been issued outside the BTS system and also accounted for gold issued on loans basis.*
4. *The reporting of turnover and purchase to Statutory authorities also incorrect.*
5. *VAT audit was conducted from 15.7.2011 to 27.9.11 by CTO enforcement and show-cause notice and we will submit our observations after completion of audit of all years.*
6. *AS 11 entry was passed for only TITAN loan O/S.*
7. *Accounting standard number 11 issued by ICAI contravened.*
8. *The quantity of purchases and quantity of sales disclosed in the annual accounts is incorrect for gold OGL and gold DTA.*
9. *Customs duty debited to P&L is in excess by Rs 1266900.*



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10. *Purchase booking not done as per the quantity and invoices received from the customer on a regular basis through BTS. Rs 428 crores accounted through a JV on 31.3.2008 without any supporting vouchers.*
11. *Our exercise of matching the purchase payable account as on 31.3.2008 reveals that the same is overstated by Rs 17.68 crores, buyers credit under stated by Rs 8.02 crores, resulting in purchases being in excess by Rs. 9.66 crores.*

3.2.2 Upon consideration of the charge vis-à-vis the Respondent's submission on the same, the Committee observed that the Respondent had infact not provided satisfactory defence despite allegations that purchases & sales booking not as per accounting policy of the Company. It is viewed that the same is not acceptable as it was incumbent upon him to have clarified those observations of the Special Auditor. It is observed that there are various observations of the Special auditor on this count as also enumerated under above. The Respondent could have furnished his defence on the basis of his own working papers. Accordingly, at this stage, in view of various discrepancies pointed out by the Special Auditor and due to non-submission of proper defence by the Respondent, he is guilty of negligence on this charge.

3.2.3 Moreover, with regard to this first charge, the Committee would like to states that the Respondent was trying to take shelter of the statement by one of the employees wherein he had said that the BTS system was not operating affectively but the scope of the internal audit very clearly said that he had to follow that bullion drill whatever entries had to go through that particular system that drill had to be followed and if at all that drill had not been followed in that case, the Respondent should have qualified and have pointed it out in his internal audit report which he agreed that he had not pointed out any of such items in his report.

3.3 The second allegation against the Respondent is he was required to check the annual account schedules specifically forward cover. There



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were transactions in bullion for which the forward covers were not taken and accounting of the same was not spelt out in audit report.

- 3.3.1 It is observed that as per S. No. 10(iii) of scope of work, an internal auditor has to check the following while conducting audit of bullion transactions:-

“The outstanding quantities of gold loan should be secured to the minimum extent prescribed in the Drill. Cases where the cover has fallen below the prescribed limit be reported”.

- 3.3.2 The Respondent in his defence stated that this point is general in nature without referring to specific transactions. In this regard, upon perusal of the Special audit report, the Committee seen that vide S.No. 2, it has been stated that *“Bullion Drill instructions have not been followed in several cases”*. In this regard, attention is also invited to para 5.6 of the Rejoinder wherein the Complainant informed that although, in bullion transactions, forward cover was to be taken as per Customers’ request but if the hedging was not done immediately, then an amount equal to 5% of the value was to be kept separately as a cushion to protect MMTC from any unfavourable movement of the dollar/rupee transaction. The Respondent failed to point out such transaction where no cushion was kept equivalent to 5%.

- 3.3.3 Although, as per the Audit programme, this aspect was to be specifically examined and reported by the internal Auditors, during the relevant period, the rupee depreciated and the customer never asked to hedge and ultimately, the burden of depreciation of rupee felt on MMTC. The exposure at RO Chennai is Rs. 116.69 crores (approx.).

- 3.3.4 Further, during the hearing, the Respondent himself very clearly agreed that he has no working papers with him in this regard and accordingly, the Committee is unable to really look at it otherwise than holding him guilty on this particular ground also.

- 3.4 The next charge against the Respondent was that he passed the general and debit entry notes without any justification details, supporting documents which remain unchecked.



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3.4.1 In respect of above charge, the Committee observed that the special audit report contains various adverse observations relating to journal vouchers and debit/credit notes such as:

- *Purchase booking not done as per the quantity and invoices received from the customer on a regular basis through BTS. Rs 428 crores accounted through a JV on 31.3.2008 without any supporting vouchers.*
- *The buyer's credit entries were not passed on the date of transaction but on 31.03.2008 vide JV A09/003 143/07-08 by transferring from HO Suspense account.*
- *Buyer's credit accounted by a single JV on 31.03.2008 and is accounted short by Rs. 8.02 crores.*
- *The entries in GL code 14001 has not been passed on a one on one basis for the payments routed through suspense but at the year end, through a single DN/JV.*

3.4.2 In view of above stated adverse remarks in the Special Audit report towards various discrepancies in the journal vouchers which the Respondent seems to have failed in reporting during the course of his internal audit.

Moreover, when during the hearing, the Committee confronted him with this particular question/allegation, he didn't have much to say.

3.5 The next charge against the Respondent was that loan against deposit, the total interest to be recovered from one of the parties was Rs. 37.24 lakhs. The special auditor pointed out the total loan against deposit not recovered from the customer i.e. Rs. 37.24 lakhs. On this particular point the details could not be furnished by the Complainant and accordingly, in absence of that evidence the Committee doesn't hold the Respondent guilty. Thus, the Respondent is held not guilty in this particular ground.

3.5.1 The next charge against the Respondent is that the fixed deposits with the banks under-stated in the books of accounts. The special auditor pointed out that the main difference was located in a UBI, a sum of Rs.6crores which was wrongly credited to Shiv-sahai.



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- 3.5.2 On this particular ground, the Respondent has been held guilty because Rs. 6crores which was received as an FDR as an advance from Shiv-sahai & Sons was originally debited to the fixed deposit receipt account and credit to the Shiv-sahai account and then when the fixed deposit matured, again Shiv-sahai account was credited with that particular account.
- 3.5.3 The Respondent himself agreed that it had been credited twice. So, the Respondent is held guilty on that particular ground.
- 3.6 The next charge against the Respondent is that interest on Fixed Deposit accounted wrongly as excess credit given to the party. As per the report of special auditor, *“interest income excess accounted and passed to customers Rs. 2,90,47,323/-“* In this particular case, the MMTC had booked an interest of Rs.7.97crores, Chennai had booked an interest of Rs.7.97crores on the total amount of the fixed deposits. As per their arrangements, the fixed deposits which were created out of the advances received from the parties the interest on that was credited to the party’s account.
- 3.6.1 When confronted with it, the Respondent was asked to produce the working papers with regard to how many fixed deposits had been created out of the funds received as advance from the customers and how much fixed deposits were created out of the funds of the MMTC itself so that how much interest had been earned on the fixed deposits receipts of the customer advances and the same amount had to be passed on to them.
- 3.6.2 The Respondent himself said that it is not possible to give that particular detail. And accordingly, he has been held guilty on account of interest income being excess accounted rather being passed on to the customer an excess by Rs.2.90 crores.
- 3.6.3 With regard to the next charge i.e. Buyers’ credit charges- short recovery of charges from the party account. In this regard, the following has been pointed out by the Special auditor:-
“Buyer’s credit accounted by a single JV on 31.03.2008 and is accounted short by Rs. 8.02 crore”



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The Respondent pleaded guilty on this particular ground. And accordingly, he is held guilty on this charge.

- 3.6.4 The last charge was with regard to the suspense account, large entries are routed through the suspense account. The report of the special auditor had reported this particular matter that various sales had been routed through the purchases and sales had been routed through that particular suspense account and at the year end this had been knocked off once the entries were passed on to the respective vendors accounts.
- 3.6.5 When confronted with this the internal auditor (Respondent) said that it was not a part of his audit scope but he was only supposed to look at the outstanding entries at the end of the year and to comment upon the outstanding entries itself.
- 3.6.6 But so far as the real position was concerned, he was supposed to look at the guidelines of the MMTC which were very clear that entire vendor entries or purchases entries had to be passed through in the normal course, rather through the suspense account so, there was no way that at the year end, the suspense account had to be nullified by crediting to the vendors account and passing it to the purchase account etc.
- 3.6.7 So, on this ground also and to this there was no other defence which was given by the Respondent, he has been held guilty on this ground also.
- 3.6.8 Accordingly, with regard to this point on which he had already been held guilty, this point further stands collaborated by this particular observation.
- 3.7 So, at the conclusion of this particular case except one ground which was with regard to the loan against deposit total interest to be recovered from the party wherein in the absence of the detailed evidence, the Respondent could not be held guilty and on all other charges, he is held guilty of professional misconduct.

CONCLUSION:

4. Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Clause



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(7) of Part I of the Second Schedule to the Chartered Accountants Act,
1949.

Sd/-

(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE &
PRESIDING OFFICER

Sd/-

(CA. RAJENDRA KUMAR P)
CHITALE)

MEMBER

Sd/-

(CA. CHHANDRASHEKHAR V.

MEMBER

DATE :10.02.2020

PLACE : New Delhi