



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-236/15-DD/211/2015/DC/725/2017

In the matter of:

Shri S. Vellaipandi,

Superintendent of Police, Central Bureau of Investigation,
Anti Corruption Branch, Shastri Bhavan,
No. 26, Haddows Road,
Chennai-600 006

.....Complainant

Versus

CA. T.S. Kumaresh (M. No. 222225)

57, KAK Building,
Room No. 15, 3rd Floor,
Corporation Office Road,
Tirupur-641 604

..... Respondent

Members present:

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

Date of Final Hearing: 10th September 2020 through Video Conferencing
Place of Hearing: New Delhi

Party Present:

CA. T.S. Kumaresh – Respondent (Appeared from his residence)

1. Vide report dated **10th February 2020 (copy enclosed)** the Disciplinary Committee was of the opinion that **CA. T.S. Kumaresh (M. No. 222225)** was **GUILTY** of Professional Misconduct falling within the meaning of Clauses (2) and (7) of Part- I of Second Schedule to the Chartered Accountants Act, 1949 relating to signing of the balance sheets and Form 3CB & 3CD in respect of a Proprietorship Firm namely M/s Sri Aman Textiles (hereinafter referred to as the "**Firm**") for the FY 2010-11 and 2011-12 without carrying out verification and audit of the books of accounts of the said Firm.

It is noted that the Respondent is held guilty under Clauses (2) and (7) of Part I of Second Schedule which state as under:-



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“(2) certifies or submits in his name, or in the name of his firm, a report of an examination of financial statements unless the examination of such statements and the related records has been made by him or by a partner or an employee in his firm or by another chartered accountant in practice;

(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 28th August 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 10th September 2020 through video conferencing.

3. The Respondent appeared before the Committee on 10th September 2020 through video conferencing from his personal location and submitted before the Committee that he had already submitted his written submissions to it which could be considered for deciding on the matter. It was noted that the Respondent has made his Written Submission dated 7th September 2020, before it wherein the Respondent had, inter-alia, submitted that the charge in the extant case was based on the statement of Shri Karthik Raj wherein he had deposed before the Complainant that the Respondent had signed the Financial Statements without examining the books of accounts. As per the Respondent, Shri Karthik Raj was never made available to him for cross examination. He further stated that he had submitted the working papers to demonstrate that he had conducted the audit and had also brought on record the returns of Income that were filed on the financial statements signed by him.

4. The Committee considered the submissions made by the Respondent and with respect to cross-examining Shri Karthik Raj, it was noted that the said request was never made before the Committee during hearing. Further, it was viewed that when a Professional is signing the financial statements and the tax audit report of any concern, it ought to be done by him after proper verification and examination of the relevant documents produced before him. The Committee noted that the Respondent submitted and relied on certain statements claiming to be his working papers to prove that he had verified the books of accounts which were merely diary report containing the name of the staff who had checked the final balances for the period from 01.04.2010 to 31.03.2011 and could not be termed as working paper of the Respondent. The Committee, accordingly, viewed that the Respondent failed to provide a copy of his working papers and documents verified by him while signing the financial statements which was incumbent upon him to provide in his defence.



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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 Clauses (2) and (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered that the name of the Respondent **CA. T.S. Kumaresh (M.No. 222225)** be removed from the Register of members for a period of 1 (One) Year.

Sd/-

[Smt. Anita Kapur]
Member, (Govt. Nominee) & Presiding Officer

Sd/-

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

Sd/-

[CA. Chandrashekhar Vasant Chitale]
Member

Sd/-

[CA. Manu Agrawal]
Member

Date: 10th September, 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-236/15-DD/211/2015/DC/725/2017]

In the matter of:

Shri S. Vellaipandi,
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.....Complainant

Versus

CA. T.S. Kumaresh (M. No. 222225)
57, KAK Building,
Room No. 15, 3rd Floor,
Corporation Office Road,
Tirupur-641 604

.....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. T. S. Kumaresh
Counsel for the Respondent : CA. K. Ravi



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

“(2) certifies or submits in his name, or in the name of his firm, a report of an examination of financial statements unless the examination of such statements and the related records has been made by him or by a partner or an employee in his firm or by another chartered accountant in practice;”

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;”

2. This is a Complainant filed by the Central Bureau of Investigation, Anti-Corruption Branch, Chennai against CA T.S. Kumeresh. The Complainant alleged that the Respondent had signed the balance sheet and Form 3CB and 3CD in respect of the proprietorship firm namely, Shri Amman Textiles for the financial years 2010-11 and 2011-12 without carrying out any verification. *“It is observed that the said Firm applied for credit facilities and working capital requirements with Bank of Maharashtra vide application dated 2nd January, 2013 (C-29) to C-33) enclosing therewith copy of financial statements and Form 3CB and 3CD for the year ending 31st March, 2012 and 31st March, 2011 signed by the Respondent”*

Brief facts of the Proceedings

3. On the date of the hearing i.e. 29/07/2019, the Committee noted that the Respondent along-with his 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 merit of the case and papers/documents available on record, the Committee decided to proceed ex-parte the Complainant.

The Respondent was put 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. The Respondent/Counsel for the Respondent made submissions. Thereafter recording the submissions, the Committee concluded the hearing.

Findings of the Committee

4. The Respondent agreed that he has signed the financial statements of the said firm for the two financial years. During the present hearing he claimed that his seal has been fabricated and affixed on the said financial statements is of no merit. As by his own admission, the Respondent has agreed that he has attested the said financial statements. The Complainant has charged that the Respondent has conducted the audit without verification of books of accounts. The Respondent draws the attention of the Committee to certain statement annexed as page number '**D-5 to D-10**' of Prima-Facie Opinion (PFO).
5. The Respondent relies on these statements which claim that these are the working papers and proved that he has verified the books of accounts for the purpose of conducting the audit. The Committee on perusal of these noting observe that these are merely a reference to who have verified and will not take the place of proper working papers which would answer to the charge of the Complainant that the Respondent has conducted the audit without verification of books of accounts.
6. In the view of the Committee, these are merely diary reports and not working papers. The Complainant has brought on record the statement of Mr. Karthikraj which was recorded before them and the same is reproduced which is at 'Page 5' of the PFO.
"I went to Tirupur took Rs.1000 to myself and gave Rs.2000 to Shri Kumaresh who signed the papers given by Shri Pichaimuthu containing trading, Profit and Loss Account statement, Balance Sheet with annexures, depreciation calculation as on 31.03.2011 and 2012 of Shri Amman Textiles without any account books or accounts which I delivered back to Shri Pichaimuthu. I did not give any books or accountings statements to CA Kumaresh for his signature. Mr. Pichaimuthu also did not even show me any accounts or books of Shri Amman Textiles till ate" (emphasis supplied)



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7. The Complainant submits that Mr. Karthikraj was an accountant who was doing sales tax of the assessee and took the signature of the Respondent in the financial statement. The Respondent has not brought on record any evidence nor has he submitted the detailed working papers and corroborative evidence to prove his claim.
8. The Respondent states that the firm is in the business of whole sale trade in Yarn and Grey Yarn cloth conversion. The conversion amounts to job work and tantamount to manufacture and net trading. The Tax audit report submitted by the Respondent is contradictory with his acts to furnish and material consumed. When the contradictory statement in the Tax Audit Report was brought to the notice of the Respondent, the Counsel for the Respondent submits as follows:
Counsel for the Respondent:
"I can tell you one thing. If you ask them to write a small letter in English, then you will know their understanding of English. It is very poor. Not only this, today, I can tell you, school does not teach letter writing and best of schools in Chettinad, letter writing is not taught. You ask a finished CA to write an adjournment letter, he will not know what to write. How to write, forget what to write. That is the truth of it."
9. The Committee records with displeasure the submission of the Id. Counsel for the Respondent. Instead of presenting facts with corroborative evidences, the Id. Counsel for the Respondent is taking a different route not advisable to establish his claim.
10. The Committee heard the Respondent on the question as to the nature of conversion; the Respondent submits they were weaving yarn to cloth. The Respondent has submitted neither any working papers nor any records to prove the stock of raw materials from whom the said job was undertaken by the firm.
11. The Respondent through his Counsel agreed to send something in writing in the next 10 to 15 days. The Committee while passing this order observed that the Respondent has not submitted anything in writing and the Committee take on records the available documents, statements and submission and finds no merit in the defence taken by the Respondent.

Conclusion

12. In view of the above findings, and reasoning as stated in above Para, the Committee is of the considered opinion, that the Respondent is **GUILTY** under Clause (2) of Part I of



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the Second Schedule and Clause (7) of Part I of the Second Schedule of Chartered Accountant 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