



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. : [PPR/88/14/DD/26/INF/2015/DC/730/2017]

In the matter of:

CA. Srinivas Bharath N K (M.No.211142),

#250/1, Ground Floor,
Between 16th & 17th Cross,
Sampige Road, Malleshwaram,
BENGALURU 560 003

.....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 September 2020 through Video Conferencing

Place of Hearing: Gurugram

Party Present:

a) Srinivas Bharath N K: the Respondent (appeared from Bangalore Branch of ICAI)

1. Vide report dated 16th December 2019 (**copy enclosed**) the Disciplinary Committee was of the opinion that **CA. Srinivas Bharath N K (M.No.211142)** was **GUILTY** of Professional Misconduct falling within the meaning of under Clause (7) of Part I of Second Schedule of Chartered Accountant Act 1949 with respect to issuing a certificate dated 8th April 2010 relating to utilization of the funds amounting to Rs.50.04 crores disbursed by the Syndicate Bank, Bangalore to M/s Deccan Cargo & Express Logistics Pvt. Ltd. (hereinafter referred to as the Company). Accordingly, the Respondent is held guilty under Clause (7) of Part I of Second Schedule which states as under:-

“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 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 7th September 2020 through video conferencing.

3. The Respondent appeared before the Committee on 7th September 2020 through video conferencing from his personal location, and made oral submissions before the Committee. He



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

also submitted his Written Representations dated 10th January 2020. The Respondent, inter-alia, submitted that an amount of Rs. 2.5 Crores paid to the Director was not disclosed in the certificate and he had provided the detail of the manner in which 50 Crores had been spent and the amount disclosed in the certificate was correct and accurate. He further submitted that he had used his proper judgment based on his knowledge and wisdom to ensure that the amounts contained in the certificate were those spent for the purpose mentioned therein which had not been questioned by any authorities.

4. The Committee considered the oral and written submissions made by the Respondent and noted that Bank Statement of Syndicate from 01st February, 2010 to 30th April, 2010 (B-10 to B-26), clearly revealed that an amount of 2.5 crore was paid to Mr. K.J. Samuel on 18th March, 2010 (B-17) out of the Syndicate bank account wherein proceeds of said term loan were received by the Company in various branches but the Respondent had not been able to bring on record the expenses which were incurred by Mr. K.J. Samuel, which were then reimbursed by the Company to him. Accordingly, the amount was transferred from the loan proceeds to Mr. Samuel's account was not reported in the certificate issued 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 and keeping in view the facts and circumstances of the case as aforesaid, ordered that the name of the Respondent **CA. Srinivas Bharath N K (M.No.211142)** be removed from the register of members for a period of 03 (three) months.

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: 7th September, 2020



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

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/88/14/DD/26/INF/2015/DC/730/2017]

In the matter of:

CA. Srinivas Bharath N K (M.No.211142), Bangalore in Re:

Proprietor of M/s Janak Soni & Associates,
106, 1st Floor,
Haash Complex,
Nr. Ellisbridge Police Line,
Nr. Nagari Hospital & Law Garden,
Ellisbridge,
AHMEDABAD-380 006.

.....Respondent

MEMBERS PRESENT:

CA. Atul Kumar Gupta, Presiding Officer

CA. Amarjit Chopra, Member (Govt. Nominee)

CA. Chandrasekhar Vasant Chitale, Member

DATE OF FINAL HEARING : 29.07.2019

PLACE OF FINAL HEARING : ICAI Bhawan, Chennai

**PARTIES PRESENT : CA. Srinivas Bharath N K
(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 of Part I of



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

the Second Schedule of Chartered Accountant Act 1949. The aforesaid Clause (7) of the Second Schedule states as under :-

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

2. This case which was initiated with the complaint from the Additional Commissioner of Income Tax 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 relates, the enquiry conducted by Dr. Soorya Thankappan, Head of Branch, CBI, Bank Securities & frauds cell, Bangalore had revealed that Syndicate Bank had sanctioned a Term loan of Rs.50 crores on 30.01.2010 to M/s Deccan Cargo & Express Logistics Pvt. Ltd. (hereinafter referred to as the Company). The Bank released the Term Loan of Rs.50.00 crores in 4 parts between 19.02.2010 and 25.03.2010. As per the sanction terms and conditions, the Company was supposed to submit periodical CA certificate to ensure utilization of the funds for the project. The Company had submitted a certificate dated 8th April, 2010 issued by the Respondent. In this certificate details of application of funds towards payment of aircraft lease rentals, fuel, consultancy charges, aircraft maintenance, finance charges, administration and other cost and capex were provided. The Respondent submitted that he had issued the said certificate showing fund utilization of Rs.50.04 crores disbursed by the Syndicate Bank, Bangalore after verification of books of account and other relevant documents.
- 3.1 The Committee noted that the Respondent had not received any appointment letter from the Company to issue CA. certificate but on the verbal instructions he had issued the CA. certificate directly addressed to



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

the bank which was supposed to be submitted to the Company who in turn was obliged to submit to lender.

- 3.2 The Committee further noted that on 18.03.2010 an amount of Rs. 2.50 crores was transferred through RTGS to the SB A/c No. 0884010705042 in the name of Shri K.J. Samuel, maintained with United Bank of India, Cantonment Branch, Brigade, Road, Bengaluru and the same was not reflected in the certificate issued by the Respondent. Thus, it was alleged in the initial complaint that the Respondent had issued a certificate without verifying the statement of accounts of the Company.

Brief facts of the Proceedings:

4. On the day of hearing i.e. 29/07/2019, CA. Srinivas Bharath N K (the Respondent) appeared before the Committee. As the matter was part heard on last hearing on 4th July 2019 the Respondent was already on oath. 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 on table. After considering all papers available on record, submission etc. The Committee decided to proceed with the matter.

Findings of the Committee

5. The Respondent appeared before this Committee and specifically asked about alleged CA certificate issued by the Respondent and whether the Respondent about having any engagement letter from the above mentioned Company. To this the Respondent submitted that the Company has given verbal request for the Certificate and the purpose of



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

the certificate is to review utilization of funds for the purpose of business/project.

6. The Committee noted the oral submission of the Respondent wherein he submitted that as per his understanding of business, the Company is in process of establishing itself into Air Cargo business and as per his interaction and his own understanding of business that the loan was taken in this direction only.
7. The Committee asked specifically from the Respondent about the charge that an amount of Rs. 2.50 crores was transferred through RTGS to the SB A/c No. 0884010705042 in the name of Shri K. J. Samuel was checked by the Respondent and it was not included in the certificate issued by him. To this the Respondent did not tender any satisfactory reply rather he stated that it was in the form of repayment of loan taken from Mr. Samuel for the purpose of business only was being reflected in the financial statements but accepted that the certificate does not include any such amount.

Conclusion

8. Thus, upon consideration of all facts, circumstances, record and law, the Committee is of the opinion that the Respondent is grossly negligent in performing his duty and has not exercised due diligence while issuing utilization certificate of the above mentioned Company. In terms of the reasoning as above, in the considered opinion of the Committee, the Respondent is held **GUILTY** in under Clause (7) 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



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

Sd/-
(CA. CHANDRASEKHAR VASANT CHITALE)
MEMBER

DATE : 16-12-2019
PLACE : New Delhi