



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

[PR/211-C/2015/DD/31/17-DC/748/2018]

**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/211-C/2015/DD/31/17-DC/748/2018]

**In the matter of:**

**Shri L.S. Padmakumar**

Superintendent of Police,  
Central Bureau of Investigation,  
Anti Corruption Branch,  
Shastri Bhawan, Haddows Road,  
**CHENNAI -600 006**

.....Complainant

**Versus**

**CA. Subramanian R.....(M.No.207705)**

No.44, (Old No.255A),  
V.O.C. Street,  
1<sup>st</sup> floor, Tirunelveli Town,  
**Tirunelveli - 627006**

.....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 : 7<sup>th</sup> December, 2020 through Video Conferencing**

**Place of Final Hearing : New Delhi**

1. That vide report dated **10<sup>th</sup> February 2020** ( copy enclosed), the Disciplinary Committee was of the opinion that **CA. Subramanian R. (M.No.207705)** was GUILTY of Professional Misconduct falling within the meaning of clause (3) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to certification of the sales and projected sales with exaggerated figures in respect of M/s Vive Agency, Trichy (hereinafter referred to as '**Firm**') without verification of underlying documents.

It is noted that the Respondent is held guilty under Clause (3) of Part I of Second Schedule which state as under:-

*“permits his name or the name of his firm to be used in connection with an estimate of earnings contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast”*



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2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 27<sup>th</sup> 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 7<sup>th</sup> December 2020 through video conferencing.

3. The Respondent appeared before the Committee on 7<sup>th</sup> December 2020 through video conferencing and made oral submissions before the Committee. He also submitted his Written Representation dated 12<sup>th</sup> September 2020 and 1<sup>st</sup> December 2020 wherein he, inter-alia, stated that the loan released in July 2010 was only a secured overdraft for an amount of Rs. 29 Lakhs and it was not given based on the projections certified by him for the years 31.3.2010 and 31.3.2011. Further, the same was repaid on 01.12.2011 i.e. much before the complaint was preferred by the CBI and thus, no loss had occurred to the Bank on account of his certification works.

4. The Committee considered the oral and written submissions made by the Respondent and noted that the financial statement for the year of the year ending 31.03.2009 and the projected financials for the year ended year ending 31.03.2010 and 31.03.2011 were signed or certified by the Respondent. It was noted that the sales for the period 31.03.2009 were reported at Rs.34.55 lakhs whereas, the Respondent had certified the projected financials with sales figures of Rs.215.40 lakhs and Rs.248.30 lakhs for the year ended 31<sup>st</sup> March 2010 and 2011 respectively. The Committee noted that the Respondent had no proper explanation to offer as regard the basis on which the said sales figures for the period 2010 and 2011 were projected.

The Committee in this regard reviewed the guidance issued by ICAI in terms of projected financial statement as referred in **Standards on Assurance Engagement (SAE) – 3400 on the Examination of Prospective Financial Information** and was of the opinion that the Respondent was required to do a proper verification and examination of the assumptions of the management to support the various figures being certified by him including the estimated turnover which in extant case the Respondent had failed to examine. With respect to the Respondent's argument about the loan being repaid by the Firm, the Committee noted the bank statement as reproduced by the Respondent in his submissions and noted that the same was recovered after conducting auctions which signifies business failure thus questioning the projections certified by the Respondent.



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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 clause (3) 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 that the Respondent **CA. Subramanian R. (M.No.207705)** be reprimanded beside imposing a fine of Rs. 20,000/-.

**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. Chandrashekhhar Vasant Chitale]**  
**Member**

**Sd/-**  
**[CA. Manu Agrawal]**  
**Member**

**Place: 7<sup>th</sup> December, 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/211-C/2015/DD/31/17-DC/748/2018]**

**In the matter of:**

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1<sup>st</sup> floor, Tirunelveli Town,  
**Tirunelveli - 627006**

**.....Respondent**

**MEMBERS PRESENT:**

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

**DATE OF FINAL HEARING : 15.10.2019**  
**PLACE OF FINAL HEARING : ICAI, CHENNAI**

**PARTIES PRESENT:**

**Respondent : CA. Subramanian R.**  
**Counsel for Respondent : CA. R.G. Rajan alongwith CA. Sricharan R.**

**Charge in brief:-**



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1. The Respondent had certified the sales figures and Projected Sales with exaggerated figures in respect of various Firms without verification of underlying documents. The Complainant stated that their Department had received a complaint from Indian Bank wherein it has been alleged that two of their then Branch Managers sanctioned Secured Overdraft facilities to someone named Sh. R. Rajkumar and others based on financial statements containing exaggerated and unrealistic sales projections which were certified by the Respondent. According to the Complainant, this has caused wrongful loss of Rs.1,55,68,000/- to the Bank.

**Brief of Proceeding :**

2. The Committee noted that the Respondent was present along with the Counsel and appeared before it. Since this was the first hearing, the Respondent was put on oath. The office apprised the Committee that no one from the Complainant Department is present to substantiate the charges, though, notice intimating schedule of this meeting was duly served upon them.

The Committee, as per Rules, decided to proceed based on available documents on record in absence of the Complainant.

2.1 In the absence of the Complainant, the office read out the charges. On being asked whether the Respondent pleads guilty to the charges, he replied in negative and wished to defend the same.

2.2 Thereafter, the Respondent made his submissions to countered the charges.

2.3 After recording the submissions of the Respondent, the Committee concluded the hearing in the caption matter.

**FINDINGS :**

3. Upon perusal of the documents on record, viz. the Complaint, Written Statement, Prima Facie Opinion and further written/oral submissions of the Complainant,



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Respondent, the Committee noted that there is only one charge against the Respondent, which is explained in para 1 above.

4. The Committee gives its findings, which are as under:-

4.1 The Complainant in this case is Superintendent of Police, Central Bureau of Investigation. It is his charge that the Respondent had prepared and certified the financial statements of the borrowers without obtaining any supportive documents and made exaggerated sales projections without any rational and justifications. Based on the financial statements and the projections by the Respondent, the Indian Bank had sanctioned the secured overdraft facilities.

4.2 The Committee perused the financial statement signed by the Respondent for the year of the year ending 31.03.2009 and the projected financials for the year ended year ending 31.03.2010 and 31.03.2011. The sales for the period 31.03.2009 are Rs. Rs.34.55 lakhs. In comparison, the Respondent certified the projected financials with sales figures of Rs.215.40 lakhs and Rs.248.30 lakhs for the year ended 31<sup>st</sup> March 2010 and 2011 respectively. The Committee sought an explanation from the Respondent as to the basis of such high projected sales values. The Committee enquired from the Respondent as to how and for what purpose overdraft facility was availed? But the Respondent had no proper explanation to offer. Again the Committee enquired about rate of interest actual and for projections, no specific rate is being informed by the Respondent. The Committee further noted that the Commission receipt for the year 2009 was Rs.3 lakh out of net profit of Rs.5.45 lakh which was not continued as it was stated by the Respondent to be a Real Estate business receipts which business is subsequently discontinued and some other business was started.

4.3 The Committee enquired from the Respondent's Counsel about the gross receipt of JCB. The Counsel submits that the said receipt is from Hire Charges of JCB which was purchased in March 2009. The Committee noted that against the loan of 17 lakhs (total cost of JCB 20 lakh) pertaining to purchase of JCB, the



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Respondent had projected the gross receipt of Rs.10 lakhs per year. The Counsel submits that these are machinery hire charges which will be around Rs.500 to Rs.600 per hour.

4.4 The Committee brought to the notice of the Respondent that she should have been followed the provisions of SAE 3400 which stated that

*“A Chartered Accountant can participate in the preparation of profit or financial forecasts and can review them, provided he indicates clearly in his report the sources of information, the basis of forecasts and also the major assumptions made in arriving at the forecasts and so long as he does not vouch for the accuracy of the forecasts. The Council has further opined that the same opinion would also apply to projections made on the basis of hypothetical assumptions about future events and management actions which are not necessarily expected to take place so long as the auditor does not vouch for the accuracy of the projections”*

4.5 The Committee also brought to the attention of the Respondent that he had failed to follow Clause 3 of Part I of the Second Schedule of the Chartered Accountants Act and the relevant Code of Ethics.

4.6 The Respondent's Counsel pleaded that as far as the assumptions over the project report are concerned, the Respondent is unable to establish because of unavailability of his Working papers. The Committee sought explanation from the Respondent regarding the manner to do the Projections when the turnover is too low and there is high uncertainty of achieving the same. The Counsel submitted that based on client's details the above projections were made by the Respondent.

4.7 Having heard, the Respondent and his Counsel the documents brought on record, the Committee is of the view that the Respondent is not applying proper due diligence and flouting the relevant standards and guidance note prescribed by the ICAI while preparing the projections.

In conclusion, the Committee holds the Respondent GUILTY of professional misconduct falling within the meaning of Clause 3 of Part I of Second Schedule of the Chartered Accountants Act.



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**CONCLUSION :**

5. Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Clause (3) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

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

**Sd/-**  
**(CA. AMARJIT CHOPRA)**  
**GOVERNMENT NOMINEE**

**Sd/-**  
**(CA. CHHANDRASHEKHAR V. CHITALE)**  
**MEMBER**

**DATE : 10<sup>th</sup> February, 2020**

**PLACE : NEW DELHI**