



**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-90/15-DD/108/15-DC/796/2018]**

**In the matter of:**

**Shri V. Ganesan, Deputy General Manager (ARD)**

**The Catholic Syrian Bank Ltd**

Head Office, CSB Bhawan

St.Mary's College Road

Thrissur,

**KERALA 680 020**

**.....Complainant**

**Versus**

**CA. M. Balasubramanian ... (M.No.201347)**

No.5, Muneeswaran Kovil Street

Near Urban Bank

Dindigul

**TAMIL NADU-624 001**

**.....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**

**The following party was also present:**

**1. CA. M. Balasubramanian : the Respondent (appeared from his personal location)**

**Date of Final Order: 17<sup>th</sup> September, 2020**

**Place of Final Order: New Delhi**

1. That vide report dated **10<sup>th</sup> February 2020** ( copy enclosed), the Disciplinary Committee was of the opinion that **CA. M. Balasubramanian (M.No.201347)** was GUILTY of Professional Misconduct falling within the meaning of Clauses (5) & (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to signing the balance sheet and Form 3CB and 3CD of M/s Iswari Spinning Mills, Dindigul ( herein after referred to as '**Firm**') and certification of Net Stock position at Rs.59.99 crores vide Stock Audit Report of the Firm dated 04/09/2014 knowing that the physical stocks were not actually existent as the subsequently stock audit conducted by the Bank confirmed the stock of Rs. 2.40 Crores only. The Complainant bank had lent a sum of Rs. 45.80 crores against the hypothecation of stocks/book debts under the Cash Credit limit.

It is noted that the Respondent is held guilty under Clauses (5) & (7) of Part I of Second Schedule which states as under:-

*"(5) fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary in making such financial statement where he is concerned with that financial statement in a professional capacity" and*

*"(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties."*



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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 5<sup>th</sup> September 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 17<sup>th</sup> September, 2020 through video conferencing.

3. The Respondent appeared before the Committee on 17<sup>th</sup> September 2020 through video conferencing and made oral submissions before the Committee. He also submitted his Written Representation dated 6<sup>th</sup> September 2020. The Respondent, inter-alia, submitted that there was a gap of 96 days between the date on which he conducted the stock audit and the date on which the second stock audit was conducted during which the account slipped to NPA on 30<sup>th</sup> September 2020. Thus, as per him, a gap of 96 days was a substantial gap for a person who intended to cheat Bank and the second tax audit report could not be taken as the sole basis to test the diligence with which he carried out the stock audit. He further submitted that loan by the Bank was not given on the basis of his stock audit report and Bank officials had visited along with him for the stock audit and thus it would be incorrect to attribute the loss suffered by Bank to him.

4. The Committee considered the oral and written submissions made by the Respondent and noted that the Respondent conducted the stock audit and certified the stock worth Rs. 55.99 Crores but after 96 days, another firm confirmed the stock worth Rs. 2.40 crore only which gave an understanding that there must have been some movement in the stock and the sales to the tune of the stock being removed should have increased which the Respondent failed to reply. It further noted that the Tax Audit Report for the F.Y. 2011-12 and 2012-13 stated that "*no day to day stock book is maintained by the Firm*" which was in contradiction to the statement of the Respondent that day to day stock book was maintained by the Firm and also that the reporting in the tax audit of the firm for the next financial year 2013-14 revealed significant excess declaration by the Firm.

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 (5) & (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 **M. Balasubramanian (M.No.201347)** from the Register of Members for a period of 6 months.

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. Chandrashekar Vasant Chitale]  
Member

Date: 17<sup>th</sup> 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-90/15-DD/108/15-DC/796/2018]**

**In the matter of:**

**Shri V. Ganesan  
Deputy General Manager (ARD)  
The Catholic Syrian Bank Ltd  
Head Office, CSB Bhawan  
St.Mary's College Road  
Thrissur  
KERALA 680 020**

**.....Complainant**

**Versus**

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No.5, Muneeswaran Kovil Street  
Near Urban Bank  
Dindigul  
TAMIL NADU-624 001**

**.....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 : 11.12.2019**

**PLACE OF FINAL HEARING : ICAI Bhawan, Chennai**

**PARTIES PRESENT:**

**Complainant : Shri V. Ganesan, DGM (AGM),**



### **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 held GUILTY of professional misconduct falling within the meaning of Clause (5) & (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said Clause (5) of Part I of Second Schedule states as under:-

*“(5) fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary in making such financial statement where he is concerned with that financial statement in a professional capacity;”*

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 Shri V. Ganesan, DGM (ARD), Catholic Syrian Bank against M.Balasubramanian. The Complainant alleged that the Respondent had signed the balance sheet and Form 3CB and 3CD in respect of the proprietary firm namely M/s Iswari Spinning Mills, Dindigul. The Complainant bank had lent a sum of Rs. 45.80 crores against the hypothecation of stocks/book debts under the C.C. limit. The Respondent knowing that the physical stocks were not actually existent had certified the Net Stock position at Rs.59.99 crores vide Stock Audit Report of the Firm dated 04/09/2014.
3. The Respondent also misreported that stock records are being maintained on a day to day basis whereas per Tax Audit reports, it was clearly mentioned that stock records are not being maintained on a day to day basis by the Firm.

### **Brief facts of the Proceedings**

4. On the date of the final hearing i.e. 11/12/2019, the Committee noted that the Complainant was present. The Respondent was not present and there was no request of adjournment by him. The matter was earlier listed on 30/07/2019 and 15/10/2019 wherein the adjournment was requested by the Respondent on both the listed dates. The Committee as per the prescribed Rules of the



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Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 decided to proceed with the matter Ex-parte. The Complainant was put on oath and directed to open the charges against the Respondent. Thereafter recording the submissions available on record, the Committee concluded the hearing.

**Findings of the Committee**

5. The Committee noted the submissions made by the Complainant wherein he stated that the Respondent had originally certified Rs.55.99 crores worth stock but on the subsequent stock audit conducted by bank confirmed the stock of Rs.2.40 Crores only.
6. The Committee enquired from the Complainant that whether their manager or bank's official visited the account borrower's premises and found any discrepancies which might exist in stock? The Complainant in reply submits that the officials made periodical visits and no suspicion arose as the account was regular and there was no issue in operations. The Complainant also submitted that their personnel did not possess relevant expertise and hence they were appointing professionals for the Stock Audit.
7. The Committee noted that Respondent in his defence in his written statement stated that the Branch Manager of the Complainant Bank approached him to verify the stock book and random physical cotton stock, processed stock, and yarn, but without the proper appointment of the Respondent as Auditor. The Manager has asked the Respondent to issue a preliminary stock verification report for his personal verification. The scope of physical verification of the stock hypothecated to the Bank carried out by the Respondent is entirely different from the scope of stock audit done by M/s. Sundar Sridini & Sridhar.
8. The Committee further noted that the Respondent also stated that he has carried out physical verification and verified relevant documents in support of his report to the Bank. Hence there is no question of concealing or not disclosing any material facts known to him at the time of issue of the certificate. It is evident from the stock audit report carried out subsequently that there has been no coverage of any such comments on his part.
9. The Committee further noted that the Tax Audit Report issued by Tax Auditor in respect of Firm for the financial year 2011-12 and 2012-13 stated that "*no day to day stock book is maintained by the Firm*". This is quite contradictory as on one side the Respondent is stating that day to day stock book is maintained by the Firm whereas the tax auditor is stating that no day to day book is maintained. Further the Respondent's



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partner has done the tax audit of the firm for the financial year 2013-14 and M/s Sundar Srini & Sridhar had revealed significant excess declaration by the Firm. M/s Sundar Srini & Sridhar (M/s SSS) had visited the Firm on 02/12/2014 the detailed Stock Register was not provided to them. M/s Sundar Srini & Sridhar also observed that the value of the physical stock was short by Rs.5611 lakhs as on 30/11/14 of the Firm.

10. The Committee noted that the Respondent in his written statement had stated that he himself had done a stock audit of the Firm. This fact is also contradicting as M/s Sundar Srini & Sridhar had stated that Respondent's partner had done a stock audit of the Firm. It is also seen that the duration between verification of stock by Respondent and M/s Sundar Srini & Sridhar was very less. The Respondent did verification in September 2014 and M/s M/s Sundar Srini & Sridhar did in December 2014 so there should not have been so much variation in the figure of stock from Rs.55.99 crores to Rs.2.40 Crores only.
11. The Committee finds merit in the Complaint filed by the Complainant bank as Respondent fails to disclose various material facts known to him which were not disclosed in financial statement including tax audit report and he had signed the balance sheet and Form 3CB and 3CD without negligently without exercising due diligence. The Committee holds the Respondent guilty of professional misconduct.
12. The Committee also raises serious doubt on part of Bank wherein the bankers were also negligent in performing their duties diligently and no serious action was taken on such bank officials. Even the periodical visit to the firm by the manager or bank's official who visited the premises failed in their judgement about the operations of their customers.

**Conclusion**

13. In view of the above findings, and reasoning as stated above, the Committee is of the considered opinion, that the Respondent is **GUILTY** under Clause (5) 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**



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**Sd/-**  
**(CA. RAJENDRA KUMAR P)**  
**MEMBER**

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

**DATE: 10/02/2020**  
**PLACE: NEW DELHI**