



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

[PR-145/19-DD/194/2019] -DC/1382/2020]

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-145/19-DD/194/2019/DC/1382/2020]

In the matter of :

Shri S Ramanathan,
Chief of Internal Vigilance,
Karur Vysya Bank,
Central Office, Erode,
Karur 639002

.....Complainant

versus

CA. R Shanmuggam (M.No. 208885),
No.45, Kothukare Street,
Near Vidhya Nikadan School,
Perixa Velasu V Chatram
Erode- 638 011

.....Respondent

Members present:

CA. Nihar Niranjan Jambusaria, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
Shri Ajay Mittal, Member (Govt. Nominee)
CA. Chandrashekhar Vasant Chitale, Member
CA. P.K. Boob, Member

Date of Final Hearing: 31st March 2021 through Video Conferencing

Place of Hearing: Mumbai

Party Present:

CA. R Shanmuggam – Respondent (appeared from his personal location)

1. That vide report dated **03rd February, 2021 (copy enclosed)**, the Disciplinary Committee was of the opinion that **CA. R Shanmuggam (M.No. 208885)**, was GUILTY of Professional Misconduct falling within the meaning of Clauses (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949. It was stated that the Respondent, being the concurrent auditor of Karur Vysya Bank Ltd. Anthiur Road Branch during July 018 to October 2018, had failed to report about the branch being indulged in unauthorised transactions including transactions done without cheques etc. It was alleged that the Respondent, being concurrent auditor was required to report about missing cheque vouchers to RBI that he had failed to report in respect of the following:

- (i) On 18.9.2018, RTGS was sent by debiting account no.16421351929 of M/s Adarsh Educational Trust without supporting cheque and RTGS challah.
- (ii) On 25.9.2018, an amount of Rs.4,57,000 was debited in SOD account no. 1642280168 of M/s. Adarsh Education Trust without supporting cheque.
- (iii) On 3.10.2018, an amount of Rs. 8,75,000/- was debited in SOD account no.1642280168 of M/s. Adarsh Education Trust without supporting cheque.



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- (iv) On 31.10.2018, an amount of Rs.1,65,500/- was debited in account no.164280367 of M/s. Balaji Agencies without supporting cheque.

It was noted that 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. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 19th March 2021 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 31st March 2021 through video conferencing.

3. The Respondent appeared before the Committee on 31st March 2021 through video conferencing from his personal location and made his oral representations on the findings of Disciplinary Committee. The Committee considered both the oral submissions as well written submissions made by the Respondent vide his letter dated 16th March 2021. The Respondent, at the outset, submitted that the last hearing of the matter that took place on 21st January 2021 was part heard and that the complainant was asked to furnish the login details. Thus, concluding at the said date and holding him guilty was premature and against the rules of natural justice. He further submitted that his written submissions dated 22nd July, 2019 were not considered by the Committee and that in the alleged episode he was being made a scapegoat in order to hide the fraud committed by the Bank Officials involving 'GL Statement- Suspense CASA, Suspense loans and Suspense Term deposits'. He denied that any of the alleged four unauthorized transactions had taken place and that as per his inspection and checking of the vouchers, those transactions were not without cheques at all. So there was no need for him to report the said transactions to the RBI at all. He argued that from last week of November, 2018 only partial login for purpose of attendance was provided to him due to which he was unable to upload the audit report for November 2018 and that it was the Branch or the Inspection team that clandestinely uploaded the report without his digital signature (DSC) and that the software accepted the report without his digital signature. Thus, either the software had bug or someone has the power to override the requirement and submit the report without his consent. He contended to have carried the audit exercising proper due diligence and that he had neither violated any of the provisions of RBI nor terms and conditions of his appointment as concurrent auditor of the Complainant Bank. In any case, he also requested the Committee to take lenient view while awarding punishment in the matter.

4. The Committee considered both the oral submissions as well written submissions and with respect to his plead that the last hearing in the matter based on which the Committee had issued



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its Findings was part heard, the Committee noted from transcripts that the extant matter was well concluded on 21st January 2021 and it was accordingly informed to both the parties including the Respondent's Counsel as the Respondent was not present during the said hearing. Further, it was noted that vide his letters dated 9th January 2019, the Respondent had tried to point out certain suspicious entries reported to be held during December, 2019. However, by that time the inspection of the Branch was already over and its certain officers including Branch manager were suspended. The Committee, thus, noted that in case the Respondent had failed to conduct audit on account of certain infrastructure limitations, it is not evident from records if the same was reported by him to any competent authority. It was accordingly noted that the Respondent had not only failed to report about the alleged transactions but also failed to report about the circumstances prevailing in the Branch despite the fact that it was imposing limit on the scope of his concurrent audit assignment. Accordingly, it was viewed that the Respondent was grossly negligent in conduct of his duties as concurrent auditor and failed to point out whatever his findings/circumstances either to the Bank Head Office or RBI as required under the scope of audit.

5. The Committee thus viewed 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 Respondent, **CA. R Shanmuggam (M.No. 208885)** be reprimanded and a fine of Rs. 25,000/- (Rupees Twenty Five Thousand Only) be levied upon him that shall be payable within a period of three months from the date of receipt of this Order. In case, the Respondent failed to pay the same as stipulated, the name of the Respondent, **CA. R Shanmuggam (M.No. 208885)** be removed for a further period of 1(one) month from the Register of members on the lines of Section 64 of the Indian Penal Code.

(12)

Sd/-
[CA. Nihar N Jambusaria]
Presiding Officer

Sd/-
[Smt. Anita Kapur]
Member (Govt. Nominee)

Sd/-
[Shri Ajay Mittal]
Member (Govt. Nominee)
[approved and confirmed through e-mail]

Sd/-
[CA. Chandrashekhar Vasant Chitale]
Member
[approved and confirmed through e-mail]

Sd/-
[CA. P.K. Boob]
Member
[approved and confirmed through e-mail]

Date: 31st March, 2021

प्रमाणित सत्य प्रतिलिपि / Certified true copy
Mohita Khanna
सदर सचिव / CA. Mohita Khanna
सहायक सचिव / Assistant Secretary
अनुशासन विभाग / Disciplinary Directorate
The Institute of Chartered Accountants of India
ICAI Bhawan, Vasant Nagar, Ghazipur, Delhi-110032

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH - III (2020-21)]
[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-145/19-DD/194/2019] -DC/1382/2020]

In the matter of:

Shri S Ramanathan,
Chief of Internal Vigilance,
Karur Vysya Bank,
Central Office, Erode,
Karur 639002

.....Complainant

Versus

CA. R. Shanmuggam, (M.No.208885)
207, 1st Floor,
Thirukumaran Building,
11F Meetu
Erode 638011

.....Respondent

MEMBERS PRESENT:

CA. Atul Kumar Gupta, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
CA. Chandrashekhar Vasant Chitale, Member
CA. Manu Agrawal, Member

Date of Final Hearing: 21st January, 2021

Place of Final Hearing: New Delhi (through Video Conferencing)

PARTIES PRESENT:

B

A

The following persons were present:

- (i) **Shri S Ramanathan: the Complainant**
- (ii) **CA. B Ramana Kumar : the Counsel for the 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 was *prima facie* held guilty of Professional Misconduct falling within the meaning of Clauses (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said Clause to the Schedule state as under:-

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

Brief Background and Allegations against the Respondent:

2. **Shri S Ramanathan** (hereinafter referred to as the “**Complainant**”), Chief of Internal Vigilance, Karur Vysya Bank (hereinafter referred to as the “**Complainant Bank**”), Central Office, Erode had filed a complaint against the **CA. R. Shanmuggam, (M.No.208885), Erode** (hereinafter referred to as the “**Respondent**”).
3. It was stated that the Respondent was appointed as concurrent auditor of Karur Vysya Bank Ltd. Anthiur Road Branch (hereinafter referred to as “**the Branch**”) w.e.f. 01.07.2018 to 30.06.2019 vide letter dated 07.06.2018[**W8**]. The audit was commenced by the Respondent on 05.07.2018. The Respondent submitted the concurrent audit report for the month of July, August, September (**C4-C10**), and October, 2018 (**C11-C17**) and the same reports were uploaded by his digital signature through the bank software. As

per the scope of audit (**W8-W13**), the physical vouchers available should be tallied with a number of vouchers shown in the day book. The voucher chitta [**C58**] was to be uploaded on daily basis under authentication of the officer/manager. The vouchers were to be verified in the monthly concurrent audit report. During the internal investigation of the Bank, it was found that the Branch was indulged into unauthorised transaction including transactions done without cheques etc which was not reported by the Respondent and that the bank suffered a loss of Rs.1016.58 lakhs due to the perpetrated fraud including the areas, discussed below. It was alleged that as per the scope of audit, the Respondent was supposed to highlight the missing cheque vouchers to RBI which he had failed to report as stated hereunder:

- (i) On 18.9.2018, RTGS was sent by debiting account no.16421351929 of M/s Adarsh Educational Trust without supporting cheque and RTGS challah.
- (ii) On 25.9.2018, an amount of Rs.4,57,000 was debited in SOD account no. 1642280168 of M/s. Adarsh Education Trust without supporting cheque.
- (iii) On 3.10.2018, an amount of Rs. 8,75,000/- was debited in SOD account no.1642280168 of M/s. Adarsh Education Trust without supporting cheque.
- (iv) On 31.10.2018, an amount of Rs.1,65,500/- was debited in account no.164280367 of M/s. Balaji Agencies without supporting cheque.

Proceedings:

4. On January 21, 2021, the Committee noted that the Complainant and the Counsel for the Respondent appeared before it from their personal location. Thereafter, they gave declaration that there was nobody present except them in their respective rooms from where they were appearing

and that they would neither record nor store the proceedings of the Committee in any form. Thereafter, the Committee asked the Counsel for the Respondent whether he was aware of the charges made against the Respondent and whether he pleaded guilty in the matter or not. The Counsel for the Respondent agreed to be aware of the charges alleged against the respondent and pleaded not guilty. The Committee, thereafter, asked the Counsel for the Respondent to make his submissions on the matter. The Committee examined both the Complainant and the Counsel for the Respondent in the matter and, thereafter, considered the submissions received from both the parties.

Based on the documents available on record and after considering the oral and written submissions made by both parties before it, the Committee concluded hearing in the matter.

Findings of the Committee:

5. The Committee noted the allegation against the Respondent as discussed in paragraph 3 above and observed as under:-
6. The Committee noted that the entire complaint pertains to the concurrent audit of the Complainant Bank's Branch which was conducted by the Respondent. The said Branch was indulged into unauthorised transaction including transactions done without cheques etc which the Respondent failed to Report. It was noted that the Complainant had specifically reported four transactions pertaining to September, 2018 and October 2018.
7. It was noted that the Respondent, in his oral and written submissions, stated that he was appointed as concurrent auditor vide appointment letter dated 5.7.2018 (**W8**) for the period from 1.7.2018 to 30.6.2019. Thereafter, he submitted the audit report for the month of, July 2018, August 2018, September 2018 and October 2018, and the reports were uploaded by his

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digital signatures through bank software. But no copy of the uploaded report was made available to him. The Report for the month of November 2018 was uploaded without his signatures (W2-W7).

- 7.1 The Respondent further submitted that there was no option in the bank software to submit the details of missing vouchers/cheques/details separately. Whenever any vouchers/cheques were found missed, he used to give the list to the Branch head and the same was rectified by the branch officials. He argued that during verification, all the cheques were found in tact and supported by vouchers which were duly passed by the bank officials. He further pointed out that the concurrent checking done by him was also endorsed by Branch Manager wherein they have stated "Nil" report.
- 7.2 As per the Respondent, the Bank did not cooperated with him to carry out audit. He was not provided with "Terminal" to carry out the Audit. He was asked to verify only the vouchers with Day book only. The branch had not provided "continuous Login" to do the verification. He had verified all the vouchers and cheques as per the details produced to him.
- 7.3 The Respondent, further, submitted that he was required to report to RBI only the suspicious fraudulent transactions which he came across during December 2018 audit and that he had reported to the Bank as well as RBI vide his letters dated Jan 9, 2019. So, he had followed the appointment terms and conditions.
8. The Committee perused the alleged 'Daily Concurrent Checking Report' of the various periods as submitted by the Respondent alongwith his letters dated 9th January 2019 and RBI Circular. It was noted from the 'Daily Concurrent Checking Report' as submitted by the Respondent to the Bank on daily basis that in the said reports dated 18.9.2018(R127), 25.9.2018(R131), 3.10.2018(R149) and 31.10.2018 (R195), no details for

the missing cheque were reported. The said reports appeared to have been signed by the team of Respondent and countersigned by the Branch manager. Further, it was viewed that in case if the Respondent had failed to carry audit as per the scope of his audit assignment due to non-cooperation of the Bank officials or non-availability of the terminal at Bank then he had failed to produce a single piece of evidence wherein he had communicated with respect of such limitations to either the Branch Officials or at the Head Office.

9. The Committee noted that, as per scope of work dated 07.06.2018, it was the duty of the auditor to bring to the notice of the RBI, any *'instances of fraud or fraudulent activities where the amount involved is Rs.100 lakhs or above should be reported to Reserve Bank of India, Department of Banking Supervisions, Central Office, Mumbai and all other instances to Regional Office of the Reserve Bank of India as stipulated in Para 4 of DBS.ARS NO, B.C 4/08.91.00/2004-2005 dated August 27, 2004.'*
10. From the above, it was viewed that the Respondent was required to report the fraud and fraudulent activities of Rs 100lakhs and above to RBI, Mumbai and *all other instances* at Regional Office of RBI. Hence, report to RBI was not restricted to reporting any specific nature or value of transactions. Hence, in the circumstances, as being explained by the Respondent he was bound to report to the RBI.
11. With respect to his communication dated Jan 19, 2019, it was noted that the Respondent had communicated about certain suspicious entries reported to be held during December, 2019. However, on perusal of the said letter, it was noted that the said communication had taken place after the inspection of the Branch was conducted and its certain officers including Branch manager were suspended.

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12. In view of the above, the Committee noted that the Respondent had not only failed to report about the alleged transactions but also failed to report about the circumstances prevailing in the Branch despite the fact that it was imposing limit on the scope of his concurrent audit assignment. His silence for such prolonged period raises doubt to the genuineness of the submissions made by the Respondent before the Committee as it was difficult to comprehend the reason for not taking any action from July, 2018 to January, 2019 and thereafter coming to action when the fraud was found and branch officials were suspended. Accordingly, it was viewed that the Respondent was grossly negligent in conduct of his duties as concurrent auditor and failed to point out whatever his findings/circumstances to either the Bank Head Office or RBI as required by the scope of audit. Therefore, the Respondent is held Guilty of professional misconduct under item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

Conclusion:

11. Thus in conclusion, in the considered opinion of the Committee, the Respondent is held guilty of professional misconduct falling within the meaning of Clauses (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 for this charge.

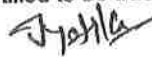
Sd/-
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[CA. Chandrashekhar Vasant Chitale]
Member
(approved & confirmed through e-mail)

Sd/-
[CA. Manu Agrawal]
Member
(approved & confirmed through e-mail)

DATE: 3rd February, 2021
PLACE: New Delhi

Certified to be true copy

Jyotika Grover
Assistant Secretary,
Disciplinary Directorate
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