



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

PR-325/2013-DD/44/14-DC/620/2017

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 325/13-DD/442014-DC/620/2017]

In the matter of:

Shri C. Easwaramoorthy
Deputy Inspector General of Police
Head of the Branch, Central Bureau of Investigation
Visakhapatnam Branch
D. No. 1-83-21/4, Sector 8, M.V.P. Colony
VISAKHAPATNAM

..... Complainant

Versus

CA. Vedantam Venkat Narayan (M. No. 211377)
Present Add: Flat No.401,
Soumya Royal Apartments,
Prakash Nagar, Rajahmundry,
Office Add: Opp. Oil Mill,
Dhanavaipeta,
RAJAMUNDRY – 533103

..... Respondent

Members present:

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

Date of Final Hearing: 29th April, 2021 through Video Conferencing

Place of Hearing: Mumbai

Party Present:

CA.Vedantam Venkat Narayan (M. No.211377)– Respondent (appeared from his personal location)

1. That vide report dated 22nd January 2021 (copy enclosed), the Disciplinary Committee was of the opinion that **CA. Vedantam Venkat Narayan (M. No. 211377)** was **GUILTY** of Professional Misconduct falling within the meaning of Items (2), (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949 in respect of a certificate dated 20th December, 2008 issued in favour of in M/s. Sri Lakshmi Swarnandhra Paper Mills Pvt. Ltd (hereinafter referred to as 'the

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Company'). It was alleged that the Respondent had issued the said certificate without examining the relevant records and without obtaining supporting information for the purpose of getting the term loan of Rs.50,00,000/- released from the sanctioned term proceeds of Rs.6.00 crores from Syndicate Bank, Rajahmundry Branch. It was noted that Items (2), (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949 state as under:-

Second schedule

Part I

"(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;"
and

"(8) fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion"

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 12th April 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 29th April 2021 through video conferencing.

3. The Respondent appeared before the Committee on 29th April 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 7th March 2021. The Respondent, at the outset, submitted that the alleged certificate was relied upon and that the Respondent was called as witness by the Prosecution-Complainant who had appeared before the CBI Court and deposed the evidences, hence, the Complainant lost the ground to allege that the said certificate was incorrect. Further, he submitted that he had only certified with respect to application of share capital and share application money by the Company and not in respect to the funds contributed by the Managing Director of the Company as observed by the Committee in its Finding Report. He also stated that at the time of issuance of certificate there was no bar on cash transaction especially in capital asset acquisition and he had not issued an end user certificate wherein he was required to examine whether the



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transactions had been routed through the Bank which had sanctioned the same. Further, the Respondent argued that it was not the case that the Bank officials relied on his certificate for releasing the loan as the bank released the loan before the date of issue of his certificate. As per him, the bankers had relied upon a certificate issued by another chartered accountant certifying the position as at 24th Dec, 2008 for sum of Rs. 2,11,12,000/- the same date when the bank released the loan. Thus, he argued that the release of loan had no nexus to the certificate issued by him. He also stated that he had verified the related vouchers and thus obtained third party evidences as well before issuing the said certificate and his integrity was further established when he refrained from issuing any further certificate for the Company. He also questioned the applicability of Clauses (2) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949 in the extant matter.

4. The Committee considered both the oral as well written submissions of the Respondent and noted that the Respondent had issued a certificate dated 20th December, 2008 stating the various heads on which Share Capital and Share Application Money of Rs. 78,69,950/- were applied and stated that the same was based on information/explanation given to him. It was noted on review of documents as available on record that the Respondent had exercised negligence in issuing the said certificate. For instance, in the said certificate major component of expenditure was paper mill machinery (amounting Rs.40lakh out of total certificate value of Rs.78 lakh) which was observed to have been verified based on various proforma invoices of the same date i.e. 14th September, 2008 with nil invoice number and nil order number. The entire expenditure was incurred in cash. Further, when receipts received from the said supplier were reviewed (**W-127 to W-132**), it was noted that all the said payments were advances made during November, 2007 to September, 2008 and none of said receipt mentioned mode of payment as to whether payment was received in cash or by cheque. It was, accordingly, viewed that if such huge amounts were being paid in cash, the absence of stamp on said receipts must have raised doubt on the part of the Respondent. It was noted that obtaining and evaluating the information or explanation as received from the management was a responsibility of the Respondent. In the extant case, the Respondent had issued the alleged certificate without properly examining and scrutinizing the available records and that he was also wrong in accepting them as sufficient evidences without asking for further information. He could have probed into the



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matter to the bottom to find out whether the purported expenses genuine. Thus, the misconduct of the Respondent as raised in the extant matter squarely falls within the ambit of the provisions as envisaged under of Clauses (2), (7) & (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 . It was noted that the Respondent's argument that Bank had relied upon the certificate of another Chartered Accountant certifying the position of expenses incurred as on Dec 24, 2008 amounting Rs. 2,11,12,000/- was not acceptable because the said certificate was issued on 11th Feb, 2010 whereas the Bank had released the alleged tranche on 24th Dec, 2008.

5. The Committee thus viewed that the misconduct on the part of the Respondent has been held and established within the meaning of Items (2), (7) & (8) 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. Vedantam Venkat Narayan (M. No. 211377)** be removed from the Register of members for a period of 3(three) months along with a fine of Rs. 25,000/- be levied upon him that shall be payable within a period of 3 months from the date of receipt of the Order. In case the Respondent, failed to pay the same as stipulated, the name of the Respondent, **CA. Vedantam Venkat Narayan (M. No. 211377)** 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.

(M)

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

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

Sd/-
[Shri Ajay Mittal, IAS (Retd)]
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: 29th April, 2021

प्रमाणित सत्य प्रतिलिपि / Certified true copy
Mohita Khanna
सी.ए. मोहिता खन्ना / CA. Mohita Khanna
सहायक सचिव / Assistant Secretary
अनुशासनिक विभाग / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आइसीएआई भवन, विश्वास नगर, शाहूरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahara, 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 325/13-DD/442014-DC/620/2017]

In the matter of:

Shri C. Easwaramoorthy

Deputy Inspector General of Police

Head of the Branch, Central Bureau of Investigation

Visakhapatnam Branch

D. No. 1-83-21/4, Sector 8, M.V.P. Colony

VISAKHAPATNAM

..... Complainant

Versus

CA. Vedantam Venkat Narayan (M. No. 211377)

Present Add: Flat No.401,

Soumya Royal Apartments,

Prakash Nagar, Rajahmundry,

Office Add: Opp. Oil Mill,

Dhanavaipeta,

RAJAMUNDRY – 533103

..... 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

Date of Final Hearing: 8th October, 2020 through Video Conferencing

Place of Hearing : New Delhi

PARTIES PRESENT:

(i) CA. Vedantam Venka Narayan – the Respondent

(ii) CA. R. G. Rajan – the Counsel for Respondent

(12)

1. **Charge (s) alleged against the Respondent**

- 1.1 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 held prima facie guilty under Clauses (2), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said Clause to the Schedule state as under:-

Second schedule

Part I

"(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;" and

"(8) fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion"

- 1.2 The allegation against the Respondent was that he, in connivance with the Bank Officials and M/s. Sri Lakshmi Swarnandhra Paper Mills Pvt. Ltd (hereinafter referred to as 'the Company'), had issued Certificate dated 20th December, 2008 in favour of the Company for getting term loan released of Rs.50,00,000/- from the sanctioned term proceeds of Rs.6.00 crores from Syndicate Bank, Rajahmundry Branch. It was alleged that the said Certificate was issued without examining the relevant records and without obtaining supporting information.

Proceedings:

2. On 8th October, 2020, during hearing, the Committee noted that the Respondent along-with Counsel was present and appeared before it through video conferencing. Thereafter, the parties present made a declaration that there was nobody except them in the room from where they were appearing and that they would neither record nor store the proceedings of the Committee in any form.

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- 2.1 The Committee noted that the matter was part heard previously and enquired from the parties that whether the matter could be taken up from where it was left during the last hearing or they wished to have de-novo hearing.
- 2.2 The Respondent and Counsel for the Respondent stated to have hearing from the stage it was left earlier. The Committee directed the Counsel for the Respondent to give his submission on the charges made against the Respondent.
- 2.3 Thereafter the Counsel for the Respondent made his submissions on the matter. The Committee examined the Counsel for Respondent.
- 2.4 Based upon the documents and information available on record and after considering the oral and written submissions made by the Respondent/Counsel, the Committee concluded hearing in the matter

Findings of the Committee:

- 2 The Committee noted the allegation against the Respondent as discussed in paragraph 1 above and observed as under:-
 - 3.1 The Committee noted that the entire complaint pertains to the certificate issued by the Respondent in respect of the Company for the funds contributed by promoter against which loan of Rs. 50.00 lacs was released out of sanctioned term of Rs. 6.00 crores.
 - 3.2 The Committee noted that although the Director (Discipline) had exonerated the Respondent from the charges leveled against him but the Board of Discipline did not agreed with the opinion of the Director (Discipline) and was of the view that *"the Respondent has issued certificate without knowing the purpose for which it was to be issued and same was issued without examining the relevant documents as the Respondent failed to bring on record that the payments*

(M)

regarding infusion of fund as certified by him were made through bank account of the Company”.

- 3.3 The Committee perused the alleged certificate dated 20/12/2008 (C-21) issued by the Respondent and noted the contents, which were as under:

“Managing Director of the Company has applied the Share Capital and Share Application Money of Rs. 78,96,950/- in the manner as:

Particulars	Amount (Rs.)
Site and Site Development expenses	22,22,480
Advances: Tools & Equipment	2,56,780
Paper Mill Machinery	40,00,000
Expenses Pending capitalization	4,12,531
Cash and Bank Balances	9,78,159
Total	78,69,950

- 3.4. On perusal of above, the Committee was of the view that the certificate was issued with respect the funds contributed by the managing director of the Company. On review of bank statements as available on record, it was noted that there were bank statements of Sri Menda Venkata Ramana Murthy, the Managing Director of the Company from January 2006 to October 2013 (C-23 to C-25) as well as that of the Company from December 2008 to October 2013. It was noted that till December 2008, no transfer to either the Company’s account or to any vendor’s account was reflected in the Managing Director’s account. Further, it was also noted from the said bank statement available on record that on same day cash deposits and withdrawals were being made. So the certificate issued for expenses incurred were not routed through the bank accounts. Further, with respect to expenses reported to be incurred and borne by the said Managing Director when reviewed based on documents available on record, a number of instances were noted which indicated the presence of negligence on the part of the Respondent when he issued the

certificate for the infusion of cash and cash expenditure to the tune of 78.00 lakhs Rupees. For instance, the Committee noted from the said certificate that major component of the expenditure was paper mill machinery. On perusal of documents available on record it was noted that various proforma invoices which were brought on record in support of the same were pertaining to same date i.e. 14th September, 2008 with nil invoice number and nil order number. Further, when receipts received from the said supplier were reviewed (W-127 to W-132), it was noted that all the said payments were advances made during November, 2007 to September, 2008 and none of said receipt mentioned mode of payment as to whether payment was received in cash or by cheque. It was, accordingly, viewed that if such huge amounts were being paid in cash, the absence of stamp on said receipts should have raised doubt on the part of the Respondent and further evidence should have been obtained by him.

3.5. In view of above facts, the Committee observed that the Respondent had issued the certificate without skeptically examining the related records. It signifies his casual approach in issuing the certificate. It was viewed that the Respondent had failed to obtain sufficient evidence before issuing the said certificate. Thus, the Respondent is held guilty of professional misconduct for not exercising due diligence and verifying the related documents.

Conclusion :

4 Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of professional and/or other misconduct falling within the meaning of Clauses (2), (7) and (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

(P)

Sd/-

CA. Atul Kumar Gupta
Presiding Officer

Sd/-
Smt. Anita Kapur
Government Nominee

Sd/-
Shri Ajay Mittal
Government Nominee

Sd/-
CA. Chandrashekhar Vasant Chitale,
Member

DATE: 22nd January, 2021

PLACE: New Delhi

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Certified to be True Copy

Mohita Khanna
(Mohita Khanna)

Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India