



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/P/124/2016/DD/330/INF/2017/DC/1255/2019]

In the matter of:

CA. Sandeep Sankaran (M.No.234519)

Inchpillil Illam

S.G. Press Post,

PALAKKAD, KERALA – 679122

.....Respondent

Members present:

CA. Nihar N 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: 11.05.2021 through Video Conferencing

Place of Hearing: Mumbai

1. That vide report dated 22nd January 2021 (copy enclosed), the Disciplinary Committee was of the opinion that CA. Sandeep Sankaran (M.No.234519) was **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 in respect of a certificate issued by him to M/s. Star Agencies, Kollam, Kerala (hereinafter referred to as the "Firm"). It was alleged that the Respondent had issued a false certificate along with the refund application wherein the goods imported vide bill of entry dated January, 2016 were wrongly correlated with sale invoices dated November, 2015 and December, 2015 and thus he falsely certified that all goods imported had been completely sold. It was noted that Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 states as under:-

Second schedule Part I

"(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 23rd 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 11th May 2021 through video conferencing.

3. At the time of hearing on 11th May 2021, the Committee noted that the Respondent was not present in person before it. However, he had submitted his further written representation dated 7th May 2021 wherein he had expressed his inability to appear before the Committee due to poor connectivity at his place and restricted movement on account of lock down in Kerala. It was, further, noted that the Respondent had thus requested the Committee to finalise its action while considering his written submission made in the matter as he had nothing further to submit. The Committee noted that the Respondent in his written submissions had stated that he had exercised due diligence in ascertaining and certifying as to whether the importer was eligible for refund of Special Additional Duty paid by him based on the documents produced before him but the inadvertent error was committed while correlating the bills of entry to sales invoice in the certificate during initial phase of his career. He contended that the said error had neither made the importer ineligible for refund nor the refund had gone to an ineligible importer. He further admitted that such an error should not have occurred and requested the Committee to take a lenient view in the matter considering his limited experience at the relevant point of time.

4. The Committee considered the written submissions of the Respondent and noted that irrespective of the fact as to whether any monetary loss had occurred to the Informant Department or not, the fact remained that the facts certified under the signatures of the Respondent were false and had arisen due to the carelessness on part of the Respondent. It further noted that the Respondent being a professional (Chartered Accountant) was required to exercise due diligence which to some extent he was able to exercise when he issued certificate to an eligible importer but the facts stated therein were not correct. It was noted that a certificate is a statement of accuracy of facts mentioned therein and a factual mistake committed in such certification, even if unintentional, loses its objectivity.



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5. The Committee thus viewed that the misconduct on the part of the Respondent has been held and established within the meaning of Item (7) 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. Sandeep Sankaran (M.No.234519)** be 'Reprimanded' along with a fine of Rs. 15,000/- 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. Sandeep Sankaran (M.No.234519)** 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.

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. Chandrashekhhar Vasant Chitale]
Member
[approved and confirmed through e-mail]

Sd/-

[CA. Pramod Kumar Boob]
Member
[approved and confirmed through e-mail]

Date: 11th May, 2021

Certified to be true copy

Mohita Khanna
CA. Mohita Khanna
Assistant Secretary,
Disciplinary Directorate,
The Institute of Chartered Accountants of India,
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

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DISCIPLINARY COMMITTEE [BENCH – III (2020-21)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings/Report 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/P/124/2016/DD/330/INF/2017/DC/1255/2019]

In the matter of:

CA. Sandeep Sankaran (M.No.234519)

Inchpillil Illam
S.G. Press Post,
PALAKKAD
KERALA - 679122

.....Respondent

MEMBERS PRESENT:

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

Date of Final Hearing: 26th October, 2020 through Video Conferencing
Place of Final Hearing : ICAI, New Delhi

PARTIES PRESENT:

(i) CA. Sandeep Sankaran : Respondent (appeared from Palakkad branch of the SIRC of ICAI)

1. Charges 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 prima facie held guilty of Professional Misconduct falling

CA. Sandeep Sankaran (M.No.234519)

within the meaning of Clause (7) 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

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

1.2 It has been alleged that the Respondent had issued false certificate along with the refund application to M/s. Star Agencies, Kollam, Kerala (hereinafter referred to as the "Firm") correlating goods imported vide bill of entry dated January, 2016 with sale invoices dated November, 2015 and December, 2015 and certified that all goods imported had been completely sold.

Proceedings:

2.1 On 26th October, 2020, during the hearing, the Committee noted that the Respondent was present in person before it. Further, the Committee noted that the case was part heard on 21/09/2020 when the Respondent was put on oath and he had confirmed to be aware of the charges made against him.

2.2 Thereafter, the Committee directed the Respondent to make his final submissions on the charge(s) made against him. The Respondent made his submissions. Based on documents and information as available on record and after considering written/oral submissions made by the Respondent, the Committee concluded hearing in the matter.

Findings of the Committee:

3. The Committee gave its findings in respect of charge(s) as contained in para 1 above as under:-

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3.1 The Committee noted that the Respondent in his written submissions dated 13/07/2017, 24/02/2020 and 22/09/2020 had stated that he had verified all the required physical documents and arrived at the refund amount correctly. After the physical verification of the documents he had given the same to his staff for preparation of correlation statement. It was his staff that had committed an unintentional error by listing wrong invoices instead of the actual invoices pertaining to the corresponding import. Inadvertently, the error went un-notice on his staff. The Respondent submitted that the said error was purely unintentional and he had no intention to certify erroneous claim of refund from CBEC Department. The goods imported were actually sold vide distinct VAT invoices in subsequent months and VAT on such sales had also been remitted.

3.1.2 He admitted that there was a small error in correlation statement which has no revenue implication. Further, no loss had occurred to the Complainant Department on account of the said error.

3.1.3 The Committee considered the above submissions and admissions of the Respondent and was of the view that a certificate is a statement of accuracy of facts mentioned therein and a factual mistake committed in such certification loses its objectivity. It was viewed that irrespective of the fact as to whether any monetary loss had occurred to the Complainant Department or not, it could not be denied that on certification of any fact a professional (Chartered Accountant) undertook full responsibility of the facts stated therein. In the extent case the facts stated in the certificate were false and thus the Respondent failed to exercise due diligence performing attesting functions and thus, he was held guilty of professional misconduct in this regard.

Conclusion :

(M)

4. Thus, in the considered opinion of the Committee, the Respondent is **GUILTY** of professional misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

(2)

Sd/-
CA. Atul Kumar Gupta
Presiding Officer

Sd/-
Smt. Anita Kapur
Government Nominee

Sd/-
CA. Manu Agrawal
Member

Sd/-
CA. Chandrashekar Vasant Chitale,
Member

DATE: 22nd January, 2021
PLACE: New Delhi

Certified to be True Copy


(Mohita Khanna)
Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India