



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

PR/22/16-DD/88/16-DC/1018/19

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/22/16-DD/88/16-DC/1018/19

In the matter of:

Shri K K V Vara Prasad
Assistant General Manager
UCO Bank, Field Inspectorate
13/22, Ground Floor
K G Road
BANGALORE - 560 009

.....Complainant

Versus

CA. N Basker (M.No.207226)
No.5, II Cross, Maravaneri
SALEM – 636 007.

.....Respondent

Members present:

Smt. Anita Kapur, Member (Govt. Nominee) & Presiding Officer

CA. Chandrashekhar Vasant Chitale, Member

CA. P.K.Boob, Member

Date of Final Hearing : 8th July, 2021

Place of Final Hearing : New Delhi

Parties Present:

CA. N Basker (M.No. 207226)- Respondent (From personal location)

1. That vide report dated 3rd February 2021 (copy enclosed), the Disciplinary Committee was of the opinion that CA. N Basker (M.No.207226) was GUILTY of professional misconduct falling within the meaning of Clauses (6) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 in respect of concurrent audit of Shastri Nagar Branch of UCO Bank (hereinafter referred to as the "Bank") for the periods November 2012 to Sep 2013, Oct 2013 to Sep 2014 and Oct 2014-Sep 2015. It was alleged that during the course of an investigation which was carried out by the Bank itself, following instances of serious irregularities were found which the Respondent had failed to report in his concurrent audit report for the period(s) concerned:-

a) that during the period 20.11.2013 to 19.01.2015 certain Cash Credit Accounts and Term Loan accounts were sanctioned without collaterals or CGTMS coverage and without observing credit discipline.



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b) that instead of adjusting the OD limit of Rs.1000.00 lac sanctioned by Zonal Office (ZO) within stipulated period of 90 days, Mr. R. Nagarajan, the then Senior Manager, Branch (who was later suspended on 19.01.2015) exceeded his delegated lending powers and allowed TOD (Temporary Overdraft) in current account of one Mr. L. Srinivasan, Prop. Of M/s. VLS Mining Corporation, to the tune of Rs.2029.00 lac over and above the sanctioned limit of Rs.1000.00 lac.

c) that Mr. R. Nagarajan allowed TOD (Temporary Overdraft) in 5 current accounts of different parties other than TOD referred in (b) above to the tune of Rs.60.18 lac from December, 2013 to January, 2015 and out of above, a running TOD of Rs.8 lac was sanctioned in current account No.03290210001141 (Sri Akshara Constructions) without executing any document against book debt.

It was noted that Clause (6) and (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 provides as under:

Part I

"(6) fails to report a material statement known to him to appear in a financial statement with which he is concerned in a professional capacity and

(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 June 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 8th July 2021 through video conferencing.

3. The Respondent appeared before the Committee on 8th July 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 13th March 2021. The Respondent, at the outset, submitted that the fraud in the Bank was systematically and elaborately done by tampering of records, misuse of powers by senior officials which form part of the Investigation Report as well. He also stated that internal inspection of the records was done and he did not receive any information which would have aroused suspicion in his mind while carrying out the concurrent audit. He contended that the violation of all the norms could not be even traced by internal or statutory auditor as both physical and electronic records were tampered.

4. The Committee considered both the oral as well written submissions of the Respondent and noted that the Respondent in his Concurrent Audit Report under the heading "Irregularities in Fresh



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Sanctions", mentioned number of the accounts to be verified by him (W-7 - April, 2014, W-8 – May, 14, W-9-10 – June, 2014, W-11-W12 – August, 2014, W-14- September, 2014) and despite non - verification of number of accounts, he stated in his Concurrent Audit Report that he had not noticed any matter susceptible to fraud or any foul play in any transactions or any instances of violation of laid down systems and procedures which might hint upon the fact that due procedures for verification and checking of documents were not adopted by the Respondent while carrying out the concurrent audit of the said Bank. Further, there were lapses in his reporting as to when he had reported that the documents related to certain specific loans were yet to be verified, he omit to report as to whether the related documents were not provided to him or the other reason for the said non-verification indicating upon the genuineness of the transactions. The Committee further noted that though the Respondent mentioned debit balance in aforesaid account of Mr. L. Srinivasan in his report of Sep, 2014 (W-156), yet he failed to report the same to the higher authorities as required by the terms of appointment (D43, point no.10), which specifically required him to report to Zonal / Head Office. Thus, it was noted that there were lapses in verification procedures adopted as well as reporting made by the Respondent to detect and report the flaw or inappropriate approvals.

5. The Committee thus viewed that the misconduct on the part of the Respondent has been held and established within the meaning within the meaning of Clauses (6) and (7) of Part I of the Second Schedule to the Chartered Accountant Act 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered that the name of the Respondent, CA. N Basker (M.No.207226) be removed from the register of members for a period of 1(one) month along with a fine of Rs. 25,000/- (Rupees twenty Five Thousand Only) 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. N Basker (M.No.207226) 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/-

[Smt. Anita Kapur]

Member (Govt. Nominee) & Presiding Officer

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, Shahdra, Delhi-110032

Sd/-

[CA. Chandrashekhar Vasant Chitale]

Member

[Approved and confirmed through e-mail]

Sd/-

[CA. P.K. Boob]

Member

[Approved and confirmed through e-mail]

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

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In the matter of:

Shri K K V Vara Prasad
Assistant General Manager
UCO Bank, Field Inspectorate
13/22, Ground Floor
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BANGALORE - 560 009

.....Complainant

Versus

CA. N Basker (M.No.207226)
No.5, II Cross, Maravaneri
SALEM - 636 007.

.....Respondent

MEMBERS PRESENT:

Smt. Anita Kapur, Presiding Officer & Member (Govt. Nominee)
Shri Ajay Mittal, Member (Govt. Nominee)
CA. Chandrashekhar Vasant Chitale, Member
CA. Manu Agrawal, Member

Date of Final Hearing: 23rd November, 2020 through Video Conferencing
(Decided on 22nd January 2021)

The following were also present:

- (i) Sh. S K Sharma - Official of the Complainant Bank**
- (ii) CA. N. Basker - Respondent**
- (iii) Shri S. Sathyanaryanan - Counsel for Respondent**

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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 (6) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said Clauses to the Schedule states as under:-

" (6) fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity; and

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

Brief Background and Allegations against the Respondent:

2. It was noted that UCO bank carried out an investigation into irregularities/ deficiencies that surfaced in Shastri Nagar branch of the Complainant bank from the date of reporting of Mr. R. Nagarajan, Senior Manager (suspended on 19.01.2015) of Shastri Nagar Branch, Chennai. During investigation, certain instances of non-reporting of serious irregularities surfaced in the Shastri Nagar branch.

3. Against the aforesaid background, the Complainant alleged that the Respondent who was concurrent auditor of the Shastri Nagar Branch of UCO Bank for the years November 2012 to Sep 2013, Oct 2013 to Sep 2014 and Oct 2014-Sep 2015, failed to point out the following discrepancies / irregularities in his concurrent audit report.

a) that Mr. R. Nagarajan, Sr. Manager, Shastri Nagar Branch, Chennai during his tenure from 20.11.2013 to 19.01.2015 sanctioned 24 Cash Credit

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Accounts of Rs.380 lac & 206 Term Loan accounts of Rs.2784.06 lac excluding Gold loan without observing credit discipline and basic formalities.

- b) that 6 Cash Credit and 44 Term Loan documents involving Rs.1171.25 lacs were sanctioned without collaterals or CGTMSC coverage, thereby exposing the bank to a risk of Rs.2784.06 lac which was the balance outstanding.
- c) that 48 CC & TL accounts of Rs.714.77 lacs were sanctioned without collateral or Credit Guarantee Fund Trust for Micro and Small Enterprises cover (CGTMSE) exposing the bank a further risk of Rs.646.11 lac which was the balance outstanding.
- d) that instead of adjusting the OD limit of Rs. 1000.00 lac sanctioned by Zonal Office (ZO) within stipulated period of 90 days, Mr. R. Nagarajan exceeding his delegated lending powers and without informing to higher authority, allowed TOD (Temporary Overdraft) in current account of Mr. L. Srinivasan, Prop. Of M/s. VLS Mining Corporation, to the tune of Rs.2029.00 lac over and above the sanctioned limit of Rs.1000.00 lac.
- e) that Mr. R. Nagarajan allowed TOD in 5 current accounts of different parties other than above TOD account (L. Srinivasan) to the tune of Rs.60.18 lac from December, 2013 to January, 2015. Out of above, a running TOD of Rs.8 lac was sanctioned in current account No.03290210001141 (Sri Akshara Constructions) without executing any document against book debt as entered in SRM and showed a debit balance of Rs.6.52 lac. Two other loans were also sanctioned to prop of M/s. Sri Akshara Constructions.
- f) that Mr. Nagarajan showed favour by sanctioning 3 loans totalling Rs.25 lac on various dates to Mr. R.S. Koteswar of Ampakudi Mitravayal-PO, Karaikudi, Tamil

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Nadu. Unusual credit transactions of Rs.136.64 lac were made to Saving Bank account of Mr. R.S. Koteshwar from 07.06.2014 to 25.11.2014 out of which Rs.77.14 lac was through loan proceeds and Rs.59.50 lac was through RTGS from different banks which included Rs.15.00 lac from OD proceeds allowed by Mr. R. Nagrajan.

- g) that Mr. Nagrajan also showed favour while sanctioning loan of Rs.2.25 lac to daily wagger & his wife and sanctioned loan of Rs.38.15 lac to Mr. G. Kumar (personal driver of Mr. R. Nagrajan) and his wife without observing credit discipline.
- h) that neither MOTD (Memorandum of Title Deeds) nor EM (Equitable Mortgage) was created in favour of bank in respect of UCO shelter loan taken over from Tamil Nadu Mercantile Bank sanctioned by ZO to Mr. R. Mahammad & Mrs. Thinsal Beevi although CMR 6B dated 24.11.2014 revealed all sanction terms & conditions were complied with thus exposing the bank to a risk of Rs.109.35 lac.
- i) that Finacle user ID & password of both Mr. Nagrajan and Mrs. R.Vasumathi R were misused by both on various dates. Most importantly on 20.01.2015 when Mrs. R. Vasumathi had used the password of Mr. Nagrajan who was suspended on 19.01.2015 for disbursing a loan of Rs.10 lac in account no. 03290610018910. He further alleged that Audit trail report revealed that alterations in attendance register were made for 20 times in case of Mrs. Vasumathi R. (initially marked leave subsequently changed to present) to facilitate unusual disbursement transactions / authorisation.
- j) that as reported from branch CCTV footage, Mr. R. Nagrajan in collusion with Mr. L. Srinivasan (VLS Group), had destroyed the bank record and handed

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over some important documents (VLS Group) to Mr. L. Srinivasan on holidays (15.01.15 and 18.01.2015) which was admitted by Mr. C. Nagraj, daily wager during interrogation by the bank's inspecting officers. Surprisingly, Mr. C. Nagraj and Mr. G. Kumar (Personal driver of Mr. R. Nagrajan) were present in the branch premises on above holidays.

- k) that unusual credit transactions (both cash & transfer through his previous branch Vijayanagar branch customer current a/c) were observed on various dates in Saving Bank account of Mr. R. Nagrajan bearing no.03290100007577 & 181001000540. Further, unusual transactions of Rs.31.53 lac were also observed on various dates in Saving Bank account of Mrs. N. Revathy, wife of Mr. R. Nagrajan bearing account no. 032901100021583.

Proceedings:

4. At the time of hearing on 23rd November 2020, the Committee noted that both the Complainant and the Respondent alongwith his Counsel were present for hearing from their respective locations through video-conferencing. At the outset, they all gave a declaration that there was nobody except them in their respective room from where they were appearing and that they would neither record nor store the proceedings of the Committee in any form. Being first hearing, the Respondent was put on oath. Thereafter, the Committee asked the Respondent whether he wished the charges to be read out or it could be taken as read. The Counsel for the Respondent stated he was aware of the charges against him and the same might be taken as read. On being asked, as to whether the Respondent pleaded guilty, the Respondent pleaded not guilty.

Thereafter, the Committee asked the Counsel for the Respondent to make submissions on the merits of the matter. The Counsel for the Respondent made submissions. The Committee examined the Counsel for the Respondent on the



submissions made by him and directed him to submit a summary/crux of his final submissions before the Committee within next 7 days.

The Committee further directed the Office to re-look into the documents and verify certain facts. It was further decided that the after receiving the submissions from the Counsel of the Respondent and input from the Office, decision in the matter would be taken. With the aforesaid directions, hearing in the matter was concluded and judgment was reserved.

5. Thereafter, at the next date of hearing on 22nd January 2021, the Committee perused the submissions dated 2nd December 2020 received from the Respondent alongwith the explanation offered by the Office. It also considered the documents available on record and oral and written submissions made by the Counsel for the Respondent before it at the time of oral hearing on 23rd November 2020 and, thereafter, concluded hearing in the matter.

Findings of the Committee:

6. At the outset, the Committee noted the Complainant in his complaint had raised 11 (eleven) allegations against the Respondent out of which the Director (Discipline) in his prima facie opinion dated 15th March 2019 held the Respondent guilty of 7(seven) allegations as enumerated in Para no 3 under sub points (a), (b), (c), (d), (e), (f) and (h) and exonerated the Respondent of rest 4 (four) allegations. Accordingly, the Committee held the enquiry on the date of hearing on said seven allegations only as discussed above.

7. The Committee noted that as regard the **first allegation** that Mr. R. Nagarajan, Sr. Manager, Shastri Nagar Branch, Chennai during his tenure from 20.11.2013 to 19.01.2015 sanctioned 24 Cash Credit Accounts of Rs.380 lac & 206 Term Loan accounts of Rs.2784.06 lac excluding Gold loan without observing credit discipline and basic formalities, the **second allegation** that 6 Cash Credit and 44

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Term Loan documents (Total limit of Rs.1171.25 lac) were not made available thus, exposed the bank to a risk of Rs.2784.06 lac (balance outstanding) and the **third allegation** that 48 CC & TL accounts of Rs.714.77 lacs were sanctioned without collateral or Credit Guarantee Fund Trust for Micro and Small Enterprises cover (CGTMSE) exposing the bank a further risk of Rs.646.11 lac (balance outstanding) which the Respondent being the concurrent auditor of the Bank failed to report in his concurrent audit report, the Respondent stated that he conducted his audit based on books and records and information and explanations provided to him. His checking covered aspects relating to sanction and disbursement and exceptions, if any have been pointed out in his reports. He further stated that the synopsis of the investigation also had a finding that the documents and electronic records were manipulated and tampered with subsequently, which could not be normally expected to be detected during concurrent audit.

8. The Committee on perusal of papers on record noted that the Respondent in his Concurrent audit Report under the heading "Irregularities in Fresh Sanctions", mentioned number of the accounts to be verified by him (**W7 - April, 2014, W8 - May, 14, W9-10 - June, 2014, W11-W12 - August, 2014, W14-September, 2014**) and was of the view that inspite of non - verification of number of accounts, the Respondent in his Concurrent Audit Report stated that he had not noticed any matter susceptible to fraud or any foul play in any transactions and did not notice during his audit any instances of violation of laid down systems and procedures. The aforesaid statements of the Respondent in his reports without verification of numbers of accounts hints upon the fact that due procedures of verification and checking of documents were not adopted by him while carrying out the concurrent audit of the said Bank and thus was of the considered opinion that the Respondent failed to verify documents related to Loan accounts and ,accordingly, held the Respondent guilty of professional misconduct

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falling within the meaning of Clauses (6) & (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

9. The Committee noted that as regard the **fourth allegation** that the Respondent being the concurrent auditor of the Bank failed to report in his concurrent audit report that instead of adjusting the OD limit of Rs. 1000.00 lac sanctioned by Zonal Office (ZO) within stipulated period of 90 days, Mr. R. Nagarajan exceeded his delegated lending powers and without informing to higher authority, allowed TOD (Temporary Overdraft) in current account of Mr. L. Srinivasan, Prop. Of M/s. VLS Mining Corporation, to the tune of Rs.2029.00 lac over and above the sanctioned limit of Rs.1000.00 lac, the Respondent made his submissions before the Committee. He submitted that the specific case of Mr. L. Srinivasan was duly reported on page no.20 under paragraph F titled "Report on Debit Balance in Current / Saving Bank Account" of his September, 2014 Concurrent audit report **(W156)** and the documents related to demand loan of Rs.6.50 Crores were not produced to him and he reported the same as "to be verified" in page no.18 – A/c No.19177 as information was not provided to him **(W-275)**. He had however checked the noting of lien in the system and the FDR which is a fundamental audit procedure in Concurrent audit. He also stated that it was evident from the investigation report itself that the loan account was opened in the name of Tamil Nadu Urban Infrastructure Review Fund against the deposit of Tamil Nadu Urban Infrastructure Review Fund itself and the Manger committed a fraud by wrongfully changing the name of the account from TN UIDF to VLS Exports. This was changed subsequently in Finacle Software during January, 2015 after their concurrent audit for the month of December, 2014 was over.

10. The Committee on perusal of papers on record noted that though the Respondent mentioned debit balance in aforesaid account of Mr. L. Srinivasan in his report of Sep, 2014 **(W-156)**, yet he failed to report the same to the higher authorities as required by the terms of appointment **(D43, point no.10)**, which

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specifically required the Concurrent Auditor to report any serious irregularity or transactions involving malafides, corrupt practices and gross financial indiscipline or anything susceptible to fraud, the Auditor have to draw a Flash / Special Report immediately to Zonal / Head Office. Further, the Respondent admitted in his Written Statement that there was a fraud by the Manager but disputed it by saying that the same was done after completion of his audit period. It was accordingly viewed that the reporting done by the Respondent was incomplete as he only mentioned in his report that the documents related to the loan were yet to be verified but did not mention specifically as to whether the documents were not provided to him or he could not verify the same due to other reason and how these documents could have affected the genuineness of the transactions. The Committee was further of the opinion that if the Respondent had verified the documents related to loan account and fixed deposit, he would have been able to find the aforesaid irregularities in the accounts. Thus, in light if the above, the Committee was of the considered opinion that the Respondent failed to exercise due diligence in discharging his professional responsibilities and was accordingly held guilty of professional misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

11. The Committee noted that in the **fifth allegation**, it was alleged that the Respondent being the concurrent auditor of the Bank failed to report in his concurrent audit report that Mr. R. Nagrajan allowed TOD in 5 current accounts of different parties other than above TOD account (L. Srinivasan) to the tune of Rs.60.18 lac from December, 2013 to January, 2015 and out of above, a running TOD of Rs.8 lac was sanctioned in current account No.03290210001141 (Sri Akshara Constructions) without executing any document against book debt as entered in SRM and showed a debit balance of Rs.6.52 lac. Two other loans were also sanctioned to prop of M/s. Sri Akshara Constructions. The Committee noted the submissions made by the Respondent wherein he inter-alia submitted that details of 5 TOD accounts were not provided by the Complainant, so he was not

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able to give any specific reply in this regard. Further, as regard details of current account vide No. No.03290210001141 (Sri Akshara Constructions), he submitted that the working papers maintained by him showed that documents were executed and the borrower had paid the amount to the supplier using some other borrowing source, hence the amount was paid to a saving bank account.

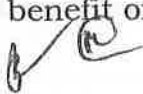
12. The Committee in this regard, on perusal of documents available on record noted that the Respondent being the concurrent auditor was required to adopt due verification procedures so that systematic and timely examination of financial transactions on a regular basis is carried out to ensure accuracy, authenticity, compliance with procedures and guidelines but in the extant charge the Committee noted that the Respondent failed to report a major deviation from the standard procedure adopted by the Bank as regard sanction of TOD more specifically of Rs.8 lac which was sanctioned in current account No.03290210001141 (Sri Akshara Constructions) without executing any document against book debt as entered in SRM and showed a debit balance of Rs.6.52 lac. It further noted that although the Respondent had submitted to have verified the documents as mentioned in his working papers, but he failed to bring on record copy of the same to substantiate his defence. It was, accordingly, viewed that the verification procedures adopted by the Respondent were not sufficient so as to detect the flaw or inappropriate approvals and thus was of the opinion that if the Respondent had verified the documents related to loan account he would have been able to detect the aforesaid irregularities in the accounts. Thus, in light of the above, the Committee was of the considered opinion that the Respondent failed to exercise due diligence in discharging his professional responsibilities and was accordingly held guilty of professional misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

13. The Committee noted that in the **sixth allegation**, it was alleged that the Respondent being the concurrent auditor of the Bank failed to report in his

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concurrent audit report that Mr. Nagrajan showed favour by sanctioning 3 loans totalling Rs.25 lac on various dates to Mr. R.S. Koteswar of Ampakudi Mitravayal-PO, Karaikudi, Tamil Nadu. Unusual credit transactions of Rs.136.64 lac were made to Saving Bank account of Mr. R.S. Koteswar from 07.06.2014 to 25.11.2014 out of which Rs.77.14 lac was through loan proceeds and Rs.59.50 lac was through RTGS from different banks which included Rs.15.00 lac from OD proceeds allowed by Mr. R. Nagrajan. The Committee further noted the submissions of the Respondent made before it wherein he inter-alia submitted that random verification of various types of newly opened saving and current accounts was done. In that process, he did not come across any unusual credits. In so far as Mr. R.S. Koteswar account was concerned, the facts as stated by the Complainant that the Manager has shown undue favour to Koteswar, was a judgement made by the Manager to lend money or not. As a concurrent auditor, he was not supposed to sit in the judgement of business decision of the branch manager and was of the view that if OD limits were allowed to a regular defaulter, in that case, it could be an issue but Mr. Koteswar's account was not a defaulter as on the date of these transactions within the banks' own branch system.

14. The Committee on perusal of papers on record noted that the extant allegation was with respect to the diversion of fund was not pointed out by the Respondent and admitted that the Respondent could not sit in judgment of the decision taken by a branch manager or an authorised official. It further noted that Point 10 of the appointment letter issued by the Bank to the Respondent (**D-26**) required him to report serious irregularity or transactions involving malafides, corrupt practices and gross financial indiscipline or anything susceptible to fraud but at the same time was of the view that a credit transaction of Rs. 1.36 crores in saving bank account was not a serious irregularity so as to qualify for its reporting under the said clause mentioned under Point No. 10. and accordingly decided to grant benefit of doubt to the Respondent and hold him not guilty of the extant charge.



15. The Committee noted that in the **eighth allegation**, it was alleged that the Respondent being the concurrent auditor of the Bank failed to report in his concurrent audit report that neither MOTD (Memorandum of Title Deeds) nor EM (Equitable Mortgage) was created in favour of bank in respect of UCO shelter loan taken over from Tamil Nadu Mercantile Bank sanctioned by ZO to Mr. R. Mahammad & Mrs. Thinsal Beevi although CMR 6B dated 24.11.2014 revealed all sanction terms & conditions were complied with thus exposing the bank to a risk of Rs.109.35 lac. The Committee further noted the submissions of the Respondent made before it wherein he inter-alia submitted that that when taken over loan was disbursed to other bank, the documents including the security/title documents on which mortgage was created would be released by that earlier lending bank. Hence, equitable mortgage would be created only subsequently. He also stated that being a concurrent auditor he had duly ensured that security documents / title documents were received from the other bank at the time of disbursement.

16. The Committee in this regard noted that as per point no.26 of Terms of appointment (**D-54**), the Respondent was required to verify all advances related documents and thus the Respondent under his scope of work was required to verify whether the security documents have been received from the other bank or not while loan was taken over from Tamil Nadu Mercantile Bank which the Respondent in his written submission had confirmed having ensured that the security documents / title documents were received from the other bank at the time of disbursement. The Committee further noted that the Complainant had not alleged regarding the non-availability of title documents in Bank records but regarding non-reporting of Equitable Mortgage not been created in favour of the Complainant bank which did not fall within the purview of the scope of the concurrent audit which in any case is created subsequently. Thus, in light of the above, the Committee was of the considered opinion that the Respondent was not guilty of professional misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

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Conclusion:

17. Thus in conclusion, in the considered opinion of the Committee, the Respondent is held guilty of professional misconduct falling within the meaning of Clauses (6) and (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 as reasoned out in Para nos. 8,10,12 and 16 above.

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Sd/-
[Smt. Anita Kapur]
Presiding Officer & Member, (Govt. Nominee)

Sd/-
[Shri Ajay Mittal]
Member, (Govt. Nominee)

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

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

DATE: 3rd February, 2021
PLACE: New Delhi

Certified to be True Copy
Mohita Khanna
(Mohita Khanna)
Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India