



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

[PR/187/15/DD/11/16/DC/703/17]

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.

[PR- 187/15-DD/11/2016/DC/703/17]

**The Deputy Superintendent of Police
Central Bureau of Investigation
Banking Securities & Fraud Cell (BS&FC),
5th Floor, Plot No. 5B
Head Quarter, CGO Complex
Lodhi Road
New Delhi – 110 003**

.....Complainant

Versus

**CA. Sanjeev Krishan (M.No.094819)
M/s Sanjeev Krishan & Co.,
Chartered Accountants,
Piyare Lal Bhawan, 11/35, Naya Parao,
Vaish College Road, Opp. Parmarth Hospital,
Rohtak- 124 001**

.....Respondent

MEMBERS PRESENT:

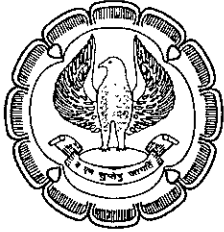
- 1. CA. Nihar N Jambusaria, Presiding Officer**
- 2. Ms. Nita Chowdhury, Member (Government Nominee)**
- 3. Shri Arun Kumar, Member (Government Nominee)**
- 4. CA. Manu Agarwal, Member**

Date of Final Hearing: 07th September, 2021 through Video Conferencing

Place of Hearing: ICAI, New Delhi

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[PR/187/15/DD/11/16/DC/703/17]

Party Present:

CA. Sanjeev Krishan (M.No.094819) (appeared in person at ICAI, New Delhi)

1. That vide findings dated 03.02.2020, under Rule 18 (17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Disciplinary Committee was of the opinion that **CA. Sanjeev Krishan (M.No.094819)** (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 in respect of undated certificate (**C-5**) issued by the Respondent certifying the stock statement of HRM Exports Private Limited (hereinafter referred to as the "Company"/ "HRMEPL") as on 05.01.2011. It was alleged that the Respondent had intentionally omitted to insert the date and value of stocks, total debtors, total amount and thus aided, Sh. Pankaj Agarwal, accountant of the Company to insert false figures and amount in the Respondent's certificate. The said certificate was used in loan appraisal of the Company by Dena bank and which induced the bank to wrongly sanction and disburse Rs.30 Cr to the Company. It was also alleged that the Respondent had issued Net worth certificate of various Directors and Guarantors of the Company which were referred to while considering the alleged sanction and disbursal of loan to the Company.

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It was noted that Clause (7) of Part I of the 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"

2. That an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication dated 25th August, 2021 was addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 07th September, 2021 through videoconferencing.

3. The Committee, at the outset, noted that the Respondent appeared before it on 7th Sept, 2021 in person 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 30th August 2021. The Respondent, at the outset, admitted that in absent-mind he signed the certificate with blank spaces. He also justified his stand stating that he had no ill-intention while signing the alleged certificate. In fact, it was the Company which misused the alleged certificate without his knowledge by filling the figures/amounts in it.







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4. The Committee considered the written submissions of the Respondent and noted that in extant case CFSL report is available on record which confirmed that the alleged stock statement dated 05/01/2011 was prepared by the Respondent in his own hand writing. It also confirmed the hand writing of Sh Pankaj Aggarwal, the accountant of the Company, having written date and the amounts in Rupees shown against Stock, Sundry Debtors and the total amount also. Further, the fact that there is a another statement as on 31/01/2011 submitted by Shri Kameshwar Sharma, director of the Company to Bank of India, which gives the amounts of total debtors and stock that were entirely different from that shown in Respondent's stock statement dated 05/01/2011, which clearly indicated that certificate issued by the Respondent was false. It was viewed that when the Respondent had issued duly initial and stamped certificate with blank spaces he had issued a blind certificate. It was further noted that the Respondent being a professional (Chartered Accountant) was required to exercise due diligence which the Respondent failed to perform when he had issued the alleged certificate. It was noted that a certificate is a statement of accuracy of facts mentioned therein and omission of factual information being certified loses its objectivity.

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



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and circumstances of the case as aforesaid ordered that a fine of Rs. 1,00,000/- (Rupees One Lakh Only) be levied on the Respondent i.e. **CA. Sanjeev Krishan (M.No.094819), Rohtak** that shall be payable within a period of 3 (three) months from the date of receipt of this Order and in case he failed to pay the same as stipulated, the name of the Respondent, **CA. Sanjeev Krishan (M.No.094819)**, be removed for a period of 3(three) months from the Register of members.

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Sd/-
(CA. NIHAR N JAMBUSARIA)
PRESIDING OFFICER

Sd/-
(MS. NITA CHOWDHURY)
GOVERNMENT NOMINEE

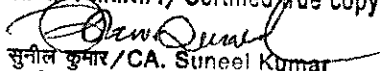
Sd/-
(SHRI ARUN KUMAR)
GOVERNMENT NOMINEE

Sd/-
(CA. MANU AGARWAL)
MEMBER

Date: 28/01/2022

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प्रमाणित सत्य प्रतिलिपि / Certified true copy


सी.ए. सुनील कुमार / CA. Suneel Kumar
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdra, Delhi-110032

DISCIPLINARY COMMITTEE [BENCH – I (2019-2020)]

[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

[Ref. No. PR- 187/15-DD/11/2016/DC/703/17]

In the matter of:

The Deputy Superintendent of Police
Office of Supdt. of Police
Central Bureau of Investigation
Banking Securities & Fraud Cell (BS&FC),
5th Floor, Plot No. 5B
Head Quarter, CGO Complex
Lodhi Road
New Delhi – 110 003.

.....Complainant

Versus

CA. Sanjeev Kumar (M.No.094819)
M/s Sanjeev Krishan & Co
Chartered Accountants,
Piyare Lal Bhawan, 11/35, Naya Parao,
Vaish College Road, Opp. Parmarth Hospital,
Rohtak- 124 001

.....Respondent

MEMBERS PRESENT:


Shri Jugal Kishore Mohapatra, I.A.S.(Retd.), Government Nominee & Presiding Officer
Ms. Rashmi Verma, I.A.S. (Retd.), Government Nominee,
CA. Babu Abraham Kallivayalil, Member
CA. Dayaniwas Sharma, Member

DATE OF FINAL HEARING : 17.10.2019

PLACE OF FINAL HEARING : ICAI, New Delhi

PARTIES PRESENT:

Complainant : Not Present
Respondent : CA. Sanjeev Kumar
Counsel for Respondent : CA. C.V. Sajan

 Dy. Supdt. Of Police –Vs- Sanjeev Kumar

BRIEF OF THE DISCIPLINARY PROCEEDINGS:-

1. On the day of hearing held on 29th August, 2019, the Committee noted that the Complainant was not present. The Respondent was present along with his Counsel. The Respondent was put on oath. The Respondent opted to defend his case. However, the Committee decided to adjourn the hearing in order to grant one more opportunity to the Complainant to present their case before the Disciplinary Committee. With this, the hearing in the matter was adjourned to a later date.

2. On the day of next hearing held on 17th October, 2019, the Committee noted that the Complainant was not present. The Respondent along with his Counsel was present. Since there was no prior intimation from the Complainant about his absence from the hearing and the last hearing was adjourned in order to provide one more opportunity to the Complainant, the Committee decided to continue with the proceedings ex-parte the Complainant. When the Committee decided to commence the hearing from the stage as it was left in last hearing, the Respondent did not raise any objection on the same. Thereafter, the Counsel for the Respondent made his submissions. The Committee also posed certain questions to the Respondent. After hearing the final submissions, the Committee decided to conclude the hearing.

CHARGES IN BRIEF AND FINDINGS OF THE DISCIPLINARY COMMITTEE:-

3. It has been alleged that the Respondent had helped HRM Exports Private Limited (hereinafter referred to as the "Company"/ "HRMEPL") by issuing an undated certificate (C-5) certifying the stock statement of the Company as on 05.01.2011. The Complainant alleged that the Respondent intentionally omitted to insert the date and value of stocks, total debtors, total amount and thus aided, Sh. Pankaj Agarwal, accountant of the Company to insert false figures and amount in the Respondent's certificate. The said certificate was used in loan appraisal of the Company by Dena bank and which induced the bank to wrongly sanction and disburse Rs.30 Cr to the Company.

3.1 The CFSL report has confirmed that stock statement dated 05/01/2011 was prepared by the Respondent in his own hand writing. The CFSL report also confirmed the hand writing of Sh Pankaj Aggarwal w.r.t. date and the amounts in Rupees shown against Stock, Sundry Debtors and the total amount also. Both of them had connived with the Company to facilitate

the enhancement of CC limit from Rs. 17.5 Crores to Rs. 30 Crores by Dena Bank, Rohtak and these funds were later siphoned off by the Company.

3.2 The certificate issued by the Respondent was false is also proved through stock statement as on 31/01/2011 submitted by Shri Kameshwar Sharma, director of the Company to Bank of India, in which the amount shown against total debtors and stock is entirely different from that shown in Respondent's stock statement dated 05/01/2011.

3.3 The Respondent also prepared Net worth certificate of various Directors and Guarantors of the Company which was used to gauge the net worth of the Company and individuals while considering for sanction and disbursal of loan to the Company.

4. On perusal of the documents on record, the Committee noted that the Complainant did not submit his further submissions on the prima facie opinion. On the other hand, the Respondent made the following written as well as verbal submissions before the Disciplinary Committee:-

4.1 That the management of M/s HRM Foods Pvt Ltd. (M/s HRMFPL) and not M/s HRM Exports Pvt Ltd (Company) approached the Respondent for issuance of values of prime securities certificate for M/s HRMFPL and net worth certificates of certain individuals connected with M/s HRMFPL. The Company was never the client of the Respondent and this was the first professional assignments of the Respondent with the M/s HRMFPL. The Respondent stated that he has not received any fees or any other amount from the Company.

4.2 That the Respondent was asked to prepare prime security certificate of M/s HRMFPL for which the format was to be approved by Management of M/s HRMFPL and the information was to be provided by them. The draft of the certificate was prepared and since details, information and documents substantiating the information about the prime securities (i.e Stock, debtors) was not received, the sample draft was given to Shri Pankaj Aggarwal, accountant of the Company to get the format approved from the Management of HRMFPL and produce the information along with documentary evidences so that the certificate can be issued. However, thereafter neither Shri Pankaj Aggarwal nor the Management of HRMFPL ever returned back to the Respondent. Subsequently, on intimation by the CBI the Respondent for the first time came to know that the draft format of prime security certificate of HRMFPL handed over to the accountant Shri Pankaj Aggarwal was misused fraudulently, behind the back of Respondent and without his knowledge that too in the case of some other

Company, HRM Exports Pvt Ltd. (Company) and amounts and figures are fraudulently filled in the draft certificate issued for M/s HRMFPL.

4.3 That the Company (HRMEPL) has fraudulently and without knowledge of the Respondent made changes in the draft certificate issued on approval basis with the intent to defraud the bank. The Respondent drew attention towards the face of the draft certificate where it is mentioned "*this is to certify that the prime security of M/s HRM Foods Exports Pvt. Ltd. is*". The Respondent stated that there was cutting on the word "Foods" and the same was replaced by the word "Exports". The Respondent brought on record copy of handwriting expert report wherein it was stated that the cutting on the word foods to replace it with exports is not done by the Respondent.

4.4 In respect of net worth certificates, the Respondent stated that he had prepared the sample draft net worth certificates of various individuals which were complete as per information and substantiating documents shown to him and issued the certificate after incorporating therein complete information i.e. the certificates were complete in terms of narrations, figures, amounts date and initials of the Respondent. These sample draft net worth certificates issued by the Respondent are also undisputed in the eyes of CBI, Delhi i.e. the Complainant as there is no adverse comments in form - I submitted to ICAI. The contents of such net worth certificates are based on the information and documentary evidences produced before the Respondent. There is no flaw in these certificates. Moreover when the management of M/s HRMFPL approached the Respondent, the purpose of these certificates was not clearly disclosed. These sample draft certificates were handed over to Shri Pankaj Aggarwal, accountant of the Company after putting initials not regular signatures of Respondent to get them approved from the management but the management never returned the same for issuance of final certificates.

4.5 Subsequently, on intimation by the CBI the Respondent for the first time came to know that the draft format of Net Worth certificates of M/s HRMFPL handed over to the accountant Shri Pankaj Aggarwal were misused fraudulently by pasting photos/ putting signatures of such individuals which were not identified by the Respondent, behind the back of the Respondent and without his knowledge that too in the case of some other Company M/s HRM Exports Pvt Ltd. (Company) for getting credit facilities from Dena Bank, Rohtak. The Respondent was also surprised how bank accepted such incomplete sample draft net worth certificates for funding.

4.6 The Respondent also stated that he has also filed a police complaint dated 12/03/2016 regarding the conduct of HRMFPL for misusing his name. Further, the name of Respondent does not appear in the FIR lodged by Dena Bank, Rohtak.

4.7 The Respondent stated that it is a basic procedural requirement for a lending bank to obtain confirmation from the CA for sanctioning a loan. Before relying upon the certificate, the bank was required to confirm from the Respondent but he was never contacted by Dena Bank to obtain any such confirmation. The Respondent further stated that it is apparent from the document that criminal act was done by the Company by altering the company name on the format and using it as a certificate without the consent of the Respondent. Further, no prudent banker would have accepted such a shabbily made document with overwriting as a CA certificate without getting confirmation from the CA concerned.

4.8 The Respondent stated that the seal on the certificate was not affixed by him and it was affixed later by Shri Pankaj Agarwal and the said fact was duly informed to the CBI while recording his statement. The matter before the CBI is still pending and trial is going on. The Respondent also stated that the Bank has not sanctioned loan on the strength of the alleged certificate. It was the CBI who made the allegation that loan was sanctioned based on the certificate issued by the Respondent.

5. The Committee perused the documents and submissions on record and noted that based on the certificate and net worth certificates issued by the Respondent, the Dena bank had enhanced the cash credit limit from 17.5 crores to Rs.30 crores and the funds were later siphoned off by the Company. It was alleged that the Respondent has issued certificate to the Company without filling the date and amount of stocks and other items and thus, aided the accountant of the Company to misuse the same for getting the CC limit enhanced from the Dena bank.

5.1 It is noted that the Respondent in his submissions denied that he had ever issued any certificates. Rather he stated that he has only issued sample draft certificates to the accountant of the Company but he misused the draft certificates by filling in the figures and date. He also denied that the Company (HRMEPL) was ever his client. It was defense of the Respondent that he has only initialed the draft certificates and it was not signed by him.

Furthermore, the seal was not affixed by him on the draft certificates. In this regard, on

perusal of the prime security certificate (for value of stock and debtors), the Committee noted that the same was issued on letter head of the Respondent firm and the contents on the same was handwritten. The Committee noted that it was initialed and seal of the Respondent firm was affixed on the same. It is observed that although the Respondent denied that seal was affixed by the accountant and not by him but he could not produce any documentary evidence in support of the same.

5.2 It is also observed that the Respondent denied any professional association with the Company (HRMEPL) but on perusal of the net worth certificates of the directors / promoters of the Company issued by the Respondent raises questions on the claim made by the Respondent and accordingly, the said defence of the Respondent is not acceptable at all.

5.3 In view of the Respondent's admission that the draft certificate was issued with no date and leaving the space of figure and amount blank, it is observed that though it was claimed that certificate issued for prime security was only draft, yet the certificate does not give impression or indication that it is draft as it was initialed and stamped. Further, there was nothing on record to show that stamp was not affixed by the Respondent. Moreover, the Respondent could not give any satisfactory reply as to why he had issued duly initialed and stamped draft certificate without date and amount on it. It is viewed that though the Respondent does not appears to be involved in forgery done by the Company, yet the conduct of issuing the duly initialed and stamped certificate with left blanks / spaces related to date and amount indicates that he was grossly negligent while issuing the certificate to the accountant of the Company and the same provided an opportunity to the accountant of the Company to misuse the same as per his will. The Respondent should have not issued draft certificates in such a way and manner which give impression of original certificate. Accordingly, the Committee decided to hold the Respondent guilty with respect to the charge related to the issuance of prime security certificate.

6. As regard the charge related to the net worth certificates, it is noted that no specific discrepancy / anomalies were pointed out by the Complainant with respect to the net worth certificates. These certificates were not hand written and was issued in computerized format. However, it is noted that these draft certificates were duly initialed and stamped by the Respondent which gives indication of original and provided an opportunity to the accountant

of the firm to misuse the same as per his will. Hence, the Committee decided to hold the Respondent guilty with respect to charge related to the net worth certificates also.

Conclusion:-

7. 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.

Sd/-
(SHRI JUGAL KISHORE MOHAPATRA, I.A.S.(RETD.))
GOVERNMENT NOMINEE & PRESIDING OFFICER


Sd/-
(MS. RASHMI VERMA, I.A.S. (RETD.))
GOVERNMENT NOMINEE

Sd/-
(CA. BABU ABRAHAM KALLIVAYALIL)
MEMBER

Sd/-
(CA. DAYANIWAS SHARMA)
MEMBER

DATE : 03rd February, 2020
PLACE : NEW DELHI.

Certified True Copy


Mukesh Kumar Mittal
Assistant Secretary
Disciplinary Directorate
The Institute of Chartered Accountants of India
ICAI Bhawan, I.P. Marg, New Delhi-110 002