



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.**

In the matter of:

Chief Manager, Zonal Internal Audit Division, Bank of Baroda, New Delhi -Vs-

CA. Manoj Pangotra (M. No. 096372), M/s V D Tiwari & Co. (FRN 002882N), Chartered
Accountants, New Delhi

[PR-307/15-DD/22/2016/DC/674/2017]

Date of Meeting : 08th April, 2022

Place of Order : ICAI, New Delhi

Party Present:

CA. Manoj Pangotra : Respondent

MEMBERS PRESENT:

1. CA. (Dr.) Debashis Mitra, Presiding Officer (In person)
2. Shri Jayanti Prasad, Govt. Nominee (Thru. VC)
3. CA. Mangesh Pandurang Kinare (In person)
4. CA. Sripriya Kumar (Thru. VC)

1. That vide findings dated 11th February, 2022 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. Manoj Pangotra (M. No. 096372), New Delhi** (hereinafter referred to as the "Respondent") was **GUILTY** of Professional Misconduct falling within the meaning of Items (7) and (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act.



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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 March 2022 was addressed to him thereby granting an opportunity of being heard in person and/or to make a written representation before the Committee on 08th April, 2022.

3. The Committee noted that the Respondent was present physically at ICAI Bhawan, New Delhi and appeared before it. He submitted written submissions dated 02.04.2022 (vide e-mail dated 04/04/2022) on the findings dated 11.02.2022 of the Committee and made oral submissions before the Committee, whereas he had inter alia submitted that the Complainant has not come up with the Complete facts and details of the case as the Order dated 27.03.2018 of Financial Intelligence Unit Department of revenue has not been brought to the notice of the Committee wherein the Bank of Baroda has been imposed a fine for violation committed by the bank. The Committee noted the further submission of the Respondent that: (i) the Bank was held guilty by the FIU for not following proper procedure, and no deficiency was observed in the concurrent Audit Report(s) of the Respondent, (ii) the Bank wants to charge the Respondent for the lapses on their part and the responsibility of concurrent auditors cannot be made unlimited, (iii) the Bank did not frame any policy regarding remittance valuing USD 100,000 and less; (iv) NOSTRO reconciliation was not part of branch activity.

The Committee observed that the Respondent was concurrent auditor of the bank and failed to perform internal check with regards to import (Bill of entry). Further, he failed to attend NOSTRO reconciliation at periodic intervals.

4. The Committee noted that in the instant complaint, the Respondent was appointed as the Concurrent Auditor of Ashok Vihar Branch of Bank of Baroda, New Delhi for the Financial Years 2014-15 and FY 2015-16 (up to 30.08.2015) and the charges against the Respondent, as failure on his part, broadly included the following:-

(i) The remitters have failed to submit any evidence of import (Bill of Entry) in due course of time and branch has also not followed up for the same.



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(ii) The branch has frequently reported to treasury, Bulk Transactions under one Docket and has not matched with exact amount of reporting at the end of the day for each remittances made for import.

(iii) Office Accounts (pertaining to General Ledger and Profit & Loss) and other customers' accounts have been misused by the branch officials for accommodating the customers.

(iv) NOSTRO Reconciliation has not been attended to at the periodic intervals.

5. The Committee considered the oral as well as written submissions made by the Respondent, facts of the case and various documents on record with the findings of the earlier Committee holding the Respondent guilty of professional misconduct on these charges.

6. On perusal of documents on record, the Committee noted that the Respondent failed to check the remitters who do not submit any evidence of import (Bill of Entry) in due course of time and branch has also not followed up for the same. The Committee also noted that the branch has frequently reported to treasury, Bulk Transactions under one Docket and has not matched with exact amount of reporting at the end of the day for each remittance made for import. The Committee observed that the Respondent was required to verify all forex transactions and to give report on the same, which he failed to perform.

6.1 The Committee further noted that the Respondent failed to apply reasonable checks and report on the irregularities relating to misuse of office accounts and certain customer's accounts. The Committee noted that the Respondent also failed to give his observation on NOSTRO Reconciliation not attended by the Bank on periodic intervals. The Committee was of the view that the above lapses reflected lack of due diligence/negligence on the part of Respondent and failure to obtain sufficient information necessary for expression of an opinion, and he was required to be more careful in performing professional duties which he failed to do.

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6.2 Accordingly, the Committee was of the view that ends of justice can be met if punishment is given to him in commensurate with his professional misconduct.

7. Thus, keeping in view the facts and circumstances of the case as aforesaid, material on record and submissions of the Respondent before it, the Committee ordered that the name of the Respondent i.e., CA. Manoj Pangotra (M. No. 096372) be removed from the register of members for a period of 01(One) Month.

Sd/-
(CA. (DR.) DEBASHIS MITRA)
PRESIDING OFFICER

Sd/-
(SHRI JAYANTI PRASAD, IAAS (RETD.))
GOVERNMENT NOMINEE

Sd/-
(CA. MANGESH P KINARE)
MEMBER

Sd/-
(CA. SRIPRIYA KUMAR)
MEMBER

DATE: 01/06/2022

PLACE: NEW DELHI

प्रमाणित सत्य प्रतिलिपि / Certified true copy

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

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – IV (2021-2022)]

[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-307/15/DD/22/16/DC/674/17]

**Chief Manager, Zonal Internal Audit Division
Bank of Baroda
4th Floor, Rajendra Bhawan
Rajendra Place
New Delhi-110 008**

.....Complainant

Versus

**CA. Manoj Pangotra (M. No. 096372)
M/sV D Tiwari & Co. (FRN 002882N)
Chartered Accountants
201 Mahabir Bhawan, Najafgarh Road
Commercial Complex
Opp. Milan Cinema
New Delhi-110 015**

.....Respondent

MEMBERS PRESENT:

**CA. Nihar N Jambusaria, Presiding Officer
Shri Arun Kumar, IAS (Retd.) Govt. Nominee
CA. G Sekar, Member
CA. Manu Agrawal, Member**

DATE OF FINAL HEARING: 13.12.2021

PARTIES PRESENT:

- i) Mr. Jitin Kumar, Chief Manager: the Complainant's Representative**
- ii) CA. Manoj Pangotra: the Respondent**
- iii) CA. Sandeep Manaktala: Counsel for the Respondent**
(all appeared in person from the office of ICAI, New Delhi)

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Facts of the case:

The Respondent firm was appointed as the Concurrent Auditor of Ashok Vihar Branch of Bank of Baroda, New Delhi. The firm was the Concurrent Auditor of Ashok Vihar Branch, New Delhi for the Financial Years 2014-15 and FY 2015-16 (up to 30.09.2015).

Charges in Brief:-

1. Charges are as under:-

1.1 The remitters have failed to submit any evidence of import (Bill of Entry) in due course of time and branch has also not followed up for the same.

1.2 The branch has frequently reported to treasury, Bulk Transactions under one Docket and has not matched with exact amount of reporting at the end of the day for each remittances made for import.

1.3 Office Accounts (pertaining to General Ledger and Profit & Loss) and other customers' accounts have been misused by the branch officials for accommodating the customers.

1.4 NOSTRO Reconciliation has not been attended to at the periodic intervals.

1.5 Non reporting of revenue leakage amounting Rs.5.35 lacs.

Brief facts of the Proceedings:

2. At the outset, the Committee noted that the Complainant as well as the Respondent along-with his Counsel were present before it for hearing on 07/09/2021. The Committee noted that since last hearing there was substantial change in constitution of the Committee hence, it asked the parties if they opted for *de-novo hearing* or might begin from where it was left earlier. Both parties wished to continue the matter from stage it was left at last hearing.

The Complainant substantiate the charges as contained in Prima Facie Opinion. The Respondent made written submission before the Committee. The Committee asked the Respondent to make oral submissions in the matter. The Counsel for the Respondent made submissions on the alleged charges which were at times countered by the Complainant's Representative.





Based on submissions made by both parties, the Committee directed the Respondent to provide the following within next 10 days:

1. Copy of appointment letter of the Respondent for each financial year as well as respective scope of audit
2. As against each charge alleged against him, he was required to provide tabulated information about:
 - a. Scope of his audit
 - b. what had been reported by him alongwith copy of documents to support the same
 - c. Whether he had reported certain selective transactions or major transactions. If so, reasons thereof

The Respondent was directed to send the copy of the same to the Complainant so that latter might provide his Rejoinder within next 7 days.

Further, on request of the Respondent, the Office was directed to write to the Complainant Bank to provide minutes of meeting held between the then DGM, Branch manager and Concurrent Auditor for quarterly assessment of Concurrent Audit performance.

Accordingly, the matter was part heard and adjourned.

2.1 Further, on next hearing dated 13/12/2021, the Committee noted that the Authorised representatives of the Complainant Department as well as the Respondent along-with his Counsel were present before it for hearing.

The Counsel for the Respondent sought adjournment for making submissions as per directions of the Committee dated 07/09/2021. The Committee noted that a detail hearing had been held in this case on 07/09/2021, hence, the Committee concluded the hearing and kept its decision reserved and directed the Counsel for the Respondent to make final submissions within two weeks from the date of hearing.

Accordingly, the matter was heard and concluded.

2.2 Thereafter this matter was placed in meeting held on 28th January 2022 for consideration of the facts and arriving at a decision by the Committee. The Committee noted that as per direction dated 07th September, 2021, the Respondent has submitted the desired information/ documents vide letter dated on 27/12/2021. Keeping in view the facts and circumstances of the case, material on record and submissions of the Complainant and the Respondent at the time of hearing, the Committee passed its judgement.

Findings of the Committee

3.1 In respect of first charge, i.e. the Respondent in his concurrent audit report has not reported the irregularity persisted in the Bank on account of non-submission of Bill of entry by the importers and no follow up by the Bank for the same, the Committee noted that the submissions of the Respondent that as per RBI guidelines, bill of entries are mandatorily required in case where remittance are USD1,00,000/- or more. However, in case of this Bank, the remitters used the statutory lacuna in active connivance of the branch management. The Respondent further submitted that the branch was having a separate Forex management team to monitor the forex transactions and they were not provided with specific guidelines to look into matter of this loophole.

3.2 In regard to this charge, it is observed by the Committee that vide para 34 of the Annexure to the appointment letter, it has been stated that (C-21)

“Reserve Bank of India has also instructed that the Concurrent Auditors should continue to verify all FOREX transactions undertaken by the Branch and also carry out 100% verification of Forms A1, A2 and A3 meant for submission to Reserve Bank of India along with R>Returns and issue a necessary certificate every month. As Concurrent Auditors of the Branch, the firm is required to carry out above and other directions given by the RBI and our Bank from time to time.”

3.3 Thus, the contention of the Respondent that there was separate forex department and forex audit team does not hold good, as they were required to verify the forex transactions and report on unusual transactions. Accordingly, the Respondent is guilty of Professional Misconduct on this charge on account of non-reporting about non-submission of Bill of Entry.

4 The next charge of the Complainant is that the Branch has frequently reported to treasury, Bulk transactions under one docket and has not matched with exact amount of reporting at the end of the day for each remittance made for import.

4.1 In this regard, the Committee noted the submissions of the Respondent that the procedure of requisition of foreign currency through dockets is an intra bank mechanism and the control of which lies with the central authority/treasury /relevant Forex branch of the bank. The Respondent further stated that through his audit report, he had continuously pointed out increase in the Forex business and the relevant remittances through his concurrent audit reports. It is observed that the

Respondent has repeated his submission of reporting about the forex business in his reports. However, he has failed to answer the specific allegation of not reporting about lapses on the part of the Bank regarding not matching the exact amount of remittances.

Thus, the Respondent was required to verify all forex transactions and to give report on the same, which does not seem to have been done by him. Accordingly, he is held guilty on this charge.

5. In respect of next charge, the Committee noted that the Respondent in his written statement submitted that the office accounts in question were the accounts with huge balances running into several hundreds of crores of rupees. The Management of the Bank has used these accounts to park entries which were also squared off by the aforesaid officials to cover these tracks. Hence, the balances remain same and do not lead to suspicion. Further, he submitted that it was part of deep seated fraud perpetrated by its own hierarchy of management of the Bank. The Respondent further stated that as regards use of other customers account by the fraudulent offices is concerned, they were appointed for Risk Based Concurrent Audit only, not for 100% audit of the banks accounting entries. The Respondent further stated that in the audit report questionnaire there was not any requirement to report on movements in the office accounts.

5.1 In this regard, the Committee noted that as per RBI circular, the main role of concurrent audit is to supplement the efforts of the bank in carrying out simultaneous internal check of the transactions and other verifications and compliance with the procedures laid down. Further, the scope of concurrent audit is wide enough/focused to cover certain fraud - prone areas such as handling of cash, deposits, advances, foreign exchange business, off-balance sheet items, credit-card business, internet banking, etc. Hence, the Respondent failed to apply reasonable checks and report on the irregularities relating to misuse of office accounts and certain customer's accounts as alleged by the Complainant. Thus, the Respondent is guilty of Professional Misconduct on this charge.

6. As regards the next charge that NOSTRO Reconciliation has not been attended to at the periodic intervals, the Committee noted the defence of the Respondent that as per audit report guidelines NOSTRO reconciliation are managed in a centralized

manner. Hence, attending to NOSTRO reconciliation does not fall within the Respondent's purview.

6.1 The Committee noted the above stated contention of the Respondent and was of the view that same does not hold good as the Respondent has not brought on record the said guidelines wherein it was mentioned that reporting on NOSTRO reconciliation will not fall under his purview.

6.2 Further, it is noted that RBI's Guidelines on Concurrent Audit System in Commercial Bank issued vide notification dated 16th July, 2015 (D-1 to D-4) vide Annexure-II contains Minimum Audit Programme for Concurrent Audit System in Commercial Banks wherein vide para (Vii), it has been specifically mentioned that to verify, "Reconciliation of Nostro and Vostro accounts-balances in Nostro accounts in different foreign currencies are within the limit prescribed by the bank".

6.3 Thus, since the Respondent has not given his observation on NOSTRO Reconciliation not attended by the Bank on periodic intervals, he is guilty of Professional Misconduct on this charge.

7. The next charge against the Respondent is not reporting about the Revenue leakage amounting to Rs. 5.35 lac.

7.1 The Respondent in his defense stated that the amount claimed in short recovery is actually consisting of amounts which actually are nonexistent/ inflated/ immaterial. The Respondent further stated that the figure of revenue leakage is greatly exaggerated merely to create a case against them.

7.2 In view of above contentions of the Respondent and looking into concept of materiality, the Committee dropped the said charge against the Respondent as the Committee was of the view that said amount of non-reporting was not so material which effect the opinion of stakeholders.

Conclusion

8. In view of above findings, the Committee was of the considered opinion that the Respondent was held **GUILTY** of Professional misconduct falling within the meaning

of Clauses (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act.

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

Sd/-
(SHRI ARUN KUMAR, I.A.S. {Retd.})
GOVERNMENT NOMINEE

Sd/-
(CA. G SEKAR)
MEMBER

Sd/-
(CA. MANU AGRAWAL)
MEMBER

Date: 11/2/2022

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प्रमाणित सत्य प्रतिलिपि / Certified true copy

Suneel Kumar
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सहायक सचिव / Assistant Secretary
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