



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

[PR/48E/16/DD/227/2016/DC/1385/2020]

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/48E/16/DD/227/2016/DC/1385/2020]

In the matter of:

Sh. N Rajashekara,
Superintendent of Police, Central Bureau of Investigation,
CBI, BS & FC,
No.36, Bellary Road,
2nd Floor, Ganganagar,
Bengaluru 560 032

.....Complainant

Versus

CA. Balasubramaniyan S (M.No. 020320)
C/o Bhaggyam Castle No.20,
Raman Street,
T Nagar,
Chennai 600 017

.....Respondent

Members present:

CA. Aniket Sunil Talati, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
Shri P.K. Srivastava, Member (Govt. Nominee)
CA. Vishal Doshi, Member
CA. Sushil Kumar Goyal, Member

Date of Hearing: 25.04.2022 through Video Conferencing

Place of Hearing: New Delhi

Party Present:

(i) CA. Balasubramaniyan S – Respondent (appeared from his personal location)

1. That vide report dated 26th October 2021 (copy enclosed), the Disciplinary Committee was of the opinion that **CA. Balasubramaniyan S (M.No. 020320)** was **GUILTY** of 'Professional and Other Misconduct' falling within the meaning of Item (7) of Part-I of Second Schedule and Item (2) of Part-IV of the First Schedule to the Chartered Accountants Act, 1949 with respect to the allegation relating to his appointment with M/s. Deccan Chronicle Holdings Limited (DCHL) as internal auditor and for not conducting internal audit of DCHL, for non-submission of internal audit report which resulted in inflation of revenues and suppression of loan liabilities of DCHL in the respective balance sheets.

It was noted that Item (7) of Part-I of the Second Schedule and Item (2) of Part-IV of the First Schedule state as under:-

Item (7) Part I of the Second Schedule

PART I: Professional misconduct in relation to chartered accountants in practice

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A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he—

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

Item (2) Part IV of the First Schedule:

PART IV: Other misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other misconduct, if he—

(2) in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work.

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated **11th April, 2022** was addressed to him thereby granting him an opportunity of being heard in person and/or to make oral/ written representation before the Committee on **25th April, 2022** through video conferencing.

3. The Respondent appeared before the Committee on 25th April 2022 through video conferencing and made his oral representations on the findings of Disciplinary Committee. It was noted that the Respondent in his written representation dated **29th November, 2021** inter-alia submitted that though he was appointed as internal auditor of DCHL, he did not perform any internal audit assignment and not submitted any internal audit report to the Audit Committee or to the Board of Directors. He was entrusted with the responsibility of maintenance of books for three directors of DCHL viz Mr. T.V. Venkatram Reddy, Mr. T.V. Ravi Reddy and Mr. K.P. Iyer. This involved passing entry in the books, co-ordinating with banks and investment houses, collecting data with regard to details of transactions and periodical visits to Hyderabad accompanied by a Chartered Accountant. The Respondent had to stay in Hyderabad for 10 days during each visit. As per him, the transactions of all the three directors were very complex and voluminous. The transactions relating to Futures and Options (F&O) were to the extent of Rs. 100 Crores for each director. In fact, every director had a minimum of five bank accounts. The Respondent maintained and finalised the accounts of all three directors from 2005 to 2012. In fact the draft financial statements as well as schedules and annexures to the Tax Audit Report were prepared, discussed with the directors and finalised by the Respondent. He even accompanied, prepared the response and supported the authorised representative in making submissions to the Income Tax Department during scrutiny assessment. Thus, the fee paid to the Respondent was for services rendered in connection with a professional assignment, but it was accounted as internal audit fees in the books of DCHL. During the course of rendering his services, he asked the directors as to why the letter stated internal auditor of the Company, they told that it was only for their accounting purpose and it would not impact his work of preparing the accounts of promoter directors. He accepted that it was his mistake to accept their explanation considering their financial and professional background. However, he contended that the said mistake was not malafide as he had not issued or signed any internal audit report. In fact the fees earned were legitimate in view of the services rendered to the directors. In view of being small practitioner with age above 73 years and suffering from various ailments, he requested the Committee for lenient view in his case.

4. The Committee considered the oral and written representation made by the Respondent on the findings of the Committee. The Committee noted that at the outset, the Respondent had accepted the guilt that though he was appointed as internal auditor of the Company, he had never

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rendered such service. In fact, he had submitted to have maintained books of accounts of the three directors of DCHL viz Mr. T.V. Venkatram Reddy, Mr. T.V. Ravi Reddy and Mr. K.P. Iyer for the transactions/ investments undertaken by them against which fees of Rs.2 lakh charged for each month of the services rendered by him was justified in view of the volume of transactions handled. However, the Committee noted that the appointment of internal audit was mandated through provisions of the Companies Act to ensure strengthening of various internal control procedures. When the Respondent accepted an appointment letter of being appointed as an Internal Auditor of the Company for record purpose only, he had supported the Company in its illicit intent. Further, the Committee noted that it was in the knowledge of the Respondent that the fees paid by him was indeed shown as internal audit fees in the books of the Company since he had submitted his resignation 'from the post of Internal Auditor' though he had provided services to the individual directors on their personal accounts. In other words, he allowed the directors to use him as a tool in their hands to perpetrate a fraud on the Company whereby the promoter directors of the Company were charging their personal expenses in the books of the Company causing wrongful gain to themselves and wrongful loss to the Company. Thus, it was evident that the Respondent had failed to exercise due diligence and care expected from the member of the profession. This negligence on his part provided a platform to M/s. DCHL for inflating revenues and suppressing loan liabilities which could have been avoided in case the Respondent had diligently performed his services.

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 the Second Schedule and Item (2) of Part-IV of the First Schedule and keeping in view the facts and circumstances of the case as aforesaid, ordered that the name of the Respondent **CA. Balasubramaniyan S (M.No. 020320)** be removed for a period of 6 (Six) months from the Register of members alongwith a fine of Rs. 2,00,000/- (Rupees Two Lakhs Only) be levied upon him that shall be payable within a period of 3 (Three) months from the date of receipt of the Order and in case he failed to pay the same, as stipulated, the name of the Respondent be removed for a further period of 1 (One) month from the Register of members.

Sd/-
[CA. Aniket Sunil Talati]
Presiding Officer

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

Sd/-
[Shri P.K. Srivastava]
Member (Govt. Nominee)

Sd/-
[CA. Vishal Doshi]
Member

Sd/-
[CA. Sushil Kumar Goyal]
Member

Date: 14/06/2022

Place: New Delhi

प्रमाणित सत्य प्रतिलिपि / Certified true copy

सीए. ज्योतिका ग्रोवर / CA. Jyotika Grover
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
अक्षय कुमार भवन, विश्वास नगर, शाहदरा, दिल्ली-110012
ICAI Bhawan, Vishwa Nagar, Shahdra, Delhi-110012

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2021-22)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(8) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007

File No. : [PR/48E/16/DD/227/2016/DC/1385/2020]

In the matter of:

Sh. N Rajashekara,
Superintendent of Police, Central Bureau of Investigation,
CBI, BS & FC,
No.36, Bellary Road,
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.....Complainant

Versus

CA. Balasubramaniyan S (M.No. 020320)
C/o Bhaggyam Castle No.20,
Raman Street,
T Nagar,
Chennai 600 017

.....Respondent

MEMBERS PRESENT:

CA. Nihar N Jambusaria, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
CA. Chandrashekhar Vasant Chitale, Member

Date of Final Hearing: 23rd July, 2021 through Video Conferencing
Place of Hearing: Mumbai

PARTIES PRESENT:

- i) Shri P. Subramanyam, Inspector of Police - Complainant's Representative (appeared from ICAI Bengaluru Office)**
 - ii) CA S. Balasubramaniyan – Respondent**
 - iii) CA V. Thiagarajan– Counsel for Respondent**
- (all parties except (i) appeared from their respective personal location)**

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(M)

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 held *prima facie* guilty of Professional and Other Misconduct falling within the meaning of Item (7) of Part-I of the Second Schedule and Item (2) of Part-IV of the First Schedule to the Chartered Accountants Act, 1949. The said Clause to the Schedule state as under: -

Item (7) Part I of Second Schedule

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

Item (2) Part IV of First Schedule

"Bring disrepute to the profession/Institute as a result of his action"

Brief Background and Allegations against the Respondent:

2. The Complainant has alleged that during the year 2000-01, the Respondent joined **M/s Deccan Chronicle Holdings limited ('DCHL')** as an internal auditor with internal audit fees of Rs. 2 lakhs per month. However, he had never carried out internal audit of DCHL. The employees of M/s DCHL working in Accounts department and other audit committee members had clearly stated that the Respondent though paid as an Internal Auditor, was busy in filing of income tax returns of promoters cum directors and other director of DCHL. The Complainant alleged that non-conduction of internal audit and non-submission of internal audit reports by the Respondent resulted in inflation of revenues and suppression of loan liabilities of M/s DCHL in the respective balance sheets **(C-17 to C-18)**.

Proceedings:

3. The Committee noted that the Complainant's Representative and the Respondent alongwith his Counsel appeared before it for hearing. Thereafter, they all gave declaration that there was nobody present except them in their respective rooms 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. The Committee asked the Counsel for the Respondent whether he wished the charges to be read out or it could be taken as read. The Counsel for the Respondent stated that he was aware of the charges against the Respondent

and that the same might be taken as read. On being asked, as to whether the Respondent pleaded guilty, the Respondent pleaded guilty and thus did not opt to defend the matter against him, however, requested the Committee to take lenient view in the matter. The Committee noted the plea of the Respondent in terms of Rule 18(8) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 and based on documents/ information available on record concluded hearing in the matter.

Findings of the Committee:

4. The Committee noted that the extant case has emanated out of a case registered by CBI dated 22.05.2014 against Chairman of **M/s Deccan Chronicle Holdings Limited (hereinafter referred to as 'DCHL' or 'Company')** and six others on the basis of written complaint dated 19.05.2014 received from AGM, Corporation bank, Bangalore for causing loss of Rs. 116.35 crores as on 30.09.2013 (including interest) to the bank.

4.1 As per the Complainant, investigations disclosed that the Respondent and others were parties to the conspiracy entered among themselves at Bangalore, Hyderabad and other places during the period from 2011 to 2012 and in furtherance to the said conspiracy, M/s DCHL fraudulently availed excessive credit facilities, by inflating its revenue, suppressing actual borrowings from other banks / financial institutions, furnishing fake and fabricated financial statements and diverting the said loan amount for purposes other than for which it was sanctioned, thereby causing a wrongful loss of Rs. 116.35 crores with interest as on 30.09.2013 to Corporation Bank, Bangalore. The Company availed credit facilities from various banks / Financial Institutions and the then outstanding liabilities of the company was more than Rs. 4067 crores. It has been reported by the Complainant that the main objectives of M/s DCHL was to carry on business of printing and publishing newspapers, magazines, periodicals, journals, books and pamphlets and other library works in different languages and was represented by its three promoter directors. The promoter directors in connivance with the Chartered Accountants and others inflated the advertisement revenues in the books of accounts of M/s DCHL without there being any sub-ledgers for the additional / inflated advertisement revenue. He also stated that M/s DCHL had significantly manipulated its balance sheet from

31.03.2008 onwards which was mostly done through back-dated entries by passing journal entries on previous dates.

4.2. As regards role of the Respondent in the entire episode, it was alleged that during the year 2000-01, the Respondent joined **M/s Deccan Chronicle Holdings limited ('DCHL')** as an internal auditor with internal audit fees of Rs. 2 lakhs per month. However, he had never carried out internal audit of DCHL. The employees of M/s DCHL working in Accounts department and other audit committee members had clearly stated that the Respondent though paid as an Internal Auditor, was busy in filing of income tax returns of promoters cum directors and other director of DCHL. The Complainant alleged that non-conduction of internal audit and non-submission of internal audit reports by the Respondent over the period resulted in inflation of revenues and suppression of loan liabilities of M/s DCHL in the respective balance sheets **(C-17 to C-18)**.

5. On perusal of the documents on record, it was noted that the Respondent had submitted the copy of his appointment letter dated 01st December 2008 **(D-5)** wherein the first paragraph read as under:

*We are pleased to **appoint you as an Internal Auditor** of our company and will be effective **from 01st December, 2008** and will be for a period of 3 years. Your **Audit fee will be Rs. 2,00,000/- per month (plus applicable taxes)** and will be paid on submission of bill by you.**(emphasis added)***

Thus, the appointment of the Respondent as the Internal Auditor of DCHL was clearly evident and the fee of Rs. 2 lakh per month was mentioned as 'Audit Fee' in the aforesaid appointment letter dated 01.12.2008 **(D-5)** which made it clear that the Respondent was indeed appointed as internal auditor to conduct internal audit of the books of accounts of M/s DCHL for which the fees was also fixed against the said services. Further copy of resignation letter dated 28.04.2012 **(D-6)** of the Respondent was also noted in this context wherein he had stated to have resigned from the post of Internal Auditor of DCHL and thus it was evident that he was

appointed as the Internal Auditor of DCHL for the period from December 2008 to April 2012 only i.e. for 41 months approximately.

7. The Committee further noted that the Respondent at Rule 8(5) stage clearly admitted that he was orally informed by the MD of the Company that **he would be looking after the personal accounts of promoters / directors of the Company and only for record purposes, he was appointed as the Internal Auditor of the Company (emphasis provided) (D-3)**. From the above admission, if the Respondent was shown as Internal auditor only on papers while he was actually handling the personal accounts of the promoters, it means that the Respondent did received substantial fees of Rs. 82 lakhs approximately to support the Company in their illicit intent.

8. The Committee further noted that in support of allegations that though the Respondent was appointed as the Internal Auditor of M/s DCHL but the Respondent did not conduct the internal audit of the books of accounts of DCHL, the Complainant had brought on record the copy of Statements on Oath given by some of the employees and other authorities of M/s. DCHL stating that no internal audit of the books of accounts of M/s. DCHL was conducted by the Respondent.

8. In the light of above facts and that the Respondent had accepted the guilt, the Committee viewed that non-conducting internal audit despite being appointed as such clearly signify that the Respondent was grossly negligent in performing his professional duties. This negligence on his part provided a platform to M/s. DCHL for inflating revenues and suppressing loan liabilities which could had been avoided or brought to the knowledge of competent authorities in case the the Respondent had diligently performed his services. It was highly unbecoming of a Chartered Accountant where he became a tool in the hands of management of the Company to perpetrate a fraud on the Company causing wrongful loss to the Company. Thus, in light of the admission of the Respondent before the Committee whereby he accepted his guilt, the Respondent is held GUILTY of "Professional and Other Misconduct" falling within the meaning of Item (7) of Part-I of the Second Schedule and Item (2) of Part-IV of the First Schedule to the Chartered Accountants Act, 1949

Conclusion :

10. Thus, in conclusion, the Respondent is held GUILTY of "Professional and Other Misconduct" falling within the meaning of Item (7) of Part-I of the Second Schedule and Item (2) of Part-IV of the First Schedule to the Chartered Accountants Act, 1949




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

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

Sd/-
[CA. Chandrashekhar Vasant Chitale]
Member
[Approved and confirmed through e-mail]

 **DATE: 26th October, 2021**

PLACE: New Delhi

Certified to be true copy

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