



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

[PR/313/16/DD/10/2017/DC/1425/2021]

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/313/16/DD/10/2017/DC/1425/2021]

In the matter of:

Shri S Ramanathan
Chief of Internal Vigilance
Karur Vysya Bank
Central Office Road,
Erode Road
Karur - 639002

04 JUL 2022

.....Complainant

Versus

CA Ramesha Gowda M. Y. (M. No. 202316)
M/s Ramesha M Y & CO.
Ashraya No. 271,
Laxmi Vilas Road,
Devaraja Mohalla,
Mysore-570024

.....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: 08.04.2022 through Video Conferencing

Place of Hearing: New Delhi

Party Present:

(i) CA. Ramesha Gowda M. Y. – Respondent (appeared from his personal location)

1. That vide report dated 8th February 2022 (copy enclosed), the Disciplinary Committee was of the opinion that **CA. Ramesh Gowda M.Y. (M.No.202316)** was **GUILTY** of professional misconduct falling within the meaning of Item (7) of Part-I of the Second Schedule to the Chartered Accountants Act, 1949 with respect to allegation that the Respondent, being concurrent auditor of Karur Vysya Bank Ltd., Mysore Branch, during the period - 1st May 2013 to 30th June 2016 failed to report about the branch head exceeding his Manager Discretionary Powers (MDP) to sanction and disburse loan. It was stated that the Branch Manager had discretionary power to sanction agricultural loan of Rs. 5 Lakhs only whereas certain specific loans were enlisted wherein loans were disbursed beyond limit which were not reported by the Respondent being the concurrent auditor of said Branch during the period(s) when they were sanctioned/disbursed.

It was noted that Item (7) of Part-I of the Second Schedule states as under:-

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”

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 25th March, 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 8th April, 2022 through video conferencing.
3. The Respondent appeared before the Committee on 8th April, 2022 through video conferencing and made his oral representations on the findings of the Disciplinary Committee. The Committee considered the oral as well as the written representation dated 21st March 2022 and 5th April 2022. The Respondent in his written representations inter-alia stated that full copy of documents were not provided by the Bank either to them or to the disciplinary authorities viz. concurrent audit report for all the period, action taken on Respondent's concurrent audit report, etc. The Respondent pointed out that when he had reported about incomplete documentation or related procedures not being complete in respect of alleged eleven loans his intent was to indicate for early action. Further, he submitted that the Committee had only considered Annexure-I of the Circular No. 402/2011 dated 30/08/2011, without considering the entire Circular. He argued that the Circular was not clear of the contents provided in it. The Circular not only provided overall limit fixed for each category of loans but also the overall limit per borrower. Further, it also mentioned about proposed enhancement of powers of Branch Manager, advises the Branches to utilise its powers judiciously and limits set in Annexure I to be proposed delegation which was all co-related and hence, it was not correct to blame the Respondent for not reporting on exceeding the MDP power. As per him, the loans sanctioned were within the permissible limit of exposure of Rs. 75 Lakhs per borrower as per the Circular.
4. At the outset, the Committee considered the oral as well as written representations of the Respondent. The Committee noted that the Complainant Bank had issued Circular No. 402/2011 dated 30th August, 2011 regarding 'Revision In Delegation of Discretionary Powers To Branch Heads For Sanctioning Of Advances' which clearly stipulated the revised powers to the Branch Heads based on the Branch classification being exceptionally large, very large, large, medium and small branches. It was noted that, as per Annexure 2 to the said circular, the alleged Mysore Branch of the Complainant Bank was classified as 'Medium' branch as on 31/03/2011 at sl. No. 119 and accordingly, Manager Discretionary Power of Rs.5 lakhs was stipulated under 'Agriculture' (R-14) and thus any sanction of any loan beyond Rs.5 lakhs was in clear contravention of Manager Discretionary Power. The Committee noted that the overall limit of Rs. 75 lakhs fixed for each borrower indicated that a borrower was permitted to take more than one nature of enlisted loans but none of the said loans could be sanctioned in excess of the limit stipulated separately for each of them. Thus, when agricultural loans in excess of Rs. 5lakhs were sanctioned or disbursed, it was an irregularity which was required to be reported by Respondent in his Concurrent audit report. It was also noted that if the Respondent had reported in respect of alleged loan accounts in context of incomplete documentation or related procedures of sanction viz field investigation prior to sanction not conducted, it could not be considered to be an observation in context of compliance of Circular No. 402/2011 dated 30th August, 2011. Thus, the Respondent had failed to understand the Circular and accordingly not performed his professional duties diligently.

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5. The Committee thus viewed that the Professional 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 to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered that the Respondent **CA Ramesha Gowda M. Y. (M. No. 202316)** be Reprimanded.

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

Jyotika
प्रमाणित सत्य प्रतिलिपि / Certified true copy

सीए. ज्योतिका ग्रोवर / CA. Jyotika Grover
सहायक सचिव / Assistant Secretary
अनुशासनमालक विभाग / Disciplinary Directorate
इंस्टीट्यूट ऑफ़ चार्टर्ड एकाउंटेंट्स ऑफ़ इंडिया
The Institute of Chartered Accountants of India
आइसीएआयई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shaahdra, Delhi-110032

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2021-22)]
[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-313/16-DD10//2017-DC/1425/2021

In the matter of:

Shri S Ramanathan
Chief of Internal Vigilance
Karur Vysya Bank
Central Office Road,
Erode Road
Karur - 639002

.....Complainant

-vs-

CA Ramesha Gowda M. Y. (M. No. 202316)
M/s Ramesha M Y & CO.
Ashraya No. 271,
Laxmi Vilas Road,
Devaraja Mohalla,
Mysore-570024

.....Respondent

MEMBERS PRESENT:

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

Date of Final Hearing: 18th October, 2021 through VC

Place of Final Hearing: Mumbai

Parties present:

- (i) Shri S Ramanathan – the Complainant
 - (ii) CA Ramesha Gowda M. Y - the Respondent
 - (iii) Shri Sunil Kumar - Counsel for Respondent
- (All appeared from their respective personal location)

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 Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949. The said Item to the Schedule states as under: -

Part I of the Second Schedule

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





Charges alleged against the Respondent:

2. The Committee noted that the Complainant had raised following allegations against the Respondent who was appointed as concurrent auditor of Karur Vysya Bank Ltd., Mysore Branch, for a period of three years from 1st May 2013 to 30th June 2016:-

a) that during the period of audit, the branch head had exceeded his Manager Discretionary Powers to sanction and disburse loan which the Respondent had failed to report till April 2016,

b) that the Complainant Bank had accorded permission for tie up tobacco loan only for the season 2013-14, however, Mysore branch extended tie up tobacco loan for subsequent seasons also, till 21st April 2016 under MDP (Manager Discretionary Power Scheme) without any permission which the Respondent failed to report being the concurrent auditor. It was stated that later, the Internal Investigation by the Complainant Bank revealed that a fraud was committed in tie up loans at the branch in these loan accounts which resulted in financial loss to the tune of Rs. 9 Crores to the Complainant Bank.

Proceedings:

3. The Committee noted that the Complainant and the Respondent along with his authorized Counsel were present during the hearing. Thereafter, 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 the first hearing, the Complainant as well as the Respondent were 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 Respondent stated he was aware of the allegations raised against him and the same might be taken as read. On being asked, as to whether the Respondent pleaded guilty, he pleaded not guilty and opted to defend his case.

Thereafter, the Complainant presented the allegations raised against the Respondent. The Counsel for the Respondent made his submissions on the allegations and was examined by the Committee on the facts of the case. The Committee, thereafter, examined the Complainant in the matter. The Counsel for the Respondent, thereafter, made his final submissions in the matter.

Based on the documents available on record and after considering the oral and written submissions made by both the parties before it, the Committee concluded hearing in the matter.

At

Findings of the Committee:

4. As regard the **first allegation**, the Committee noted that the Complainant Bank had alleged that the Respondent had failed to report in his concurrent audit report about the Mysore Branch Head exceeding his manager discretionary power to sanction and disburse loan. It was noted that the Complainant had pointed out that that the discretionary power of Branch Manager, in extant case, was to sanction agricultural loan of Rs. 5 Lakhs only whereas the following loans were disbursed beyond limit by the Complainant Bank which were not reported by the Respondent till April 2016:-

SI no	Account Number	Customer Name	OPEN DATE	LIMIT
1	1307711000000099	BASAVARA1JU S	25-JUN-14	1250000.00
2	1307711000000765 C-28	NATARAJU SN	15-APR-15	1200000.00
3	1307711000000853C-32	CHNNEGOWDA	06-MAY-15	1200000.00
4	1307711000000941 C-31	CHANDRA	15-MAY-15	1050000.00
5	1307711000001238 C-33	RAJAMMA	04-JUN-15	1756200.00
6	1307711000001571	YASHODAMMA	24-JUN-15	1200000.00
7	1307711000001874 C-57	THAMME GOWDA	03-JUL-15	1300000.00
8	1307711000002004 C-66	LAKSHMAMMA	09-JUL-15	1200000.00
9	1307711000002069 C-73	SHIVA KUMARA	11-JUL-15	1200000.00
10	1307711000002421	DODDAIAH	07-JAN-16	1375000.00
11	1307711000002475 C-99	KANTHA RAJU S	30-MAR-16	1600000.00

4.1 The Respondent's Counsel submitted before the Committee that the auditor was a watchdog and not a bloodhound. The scope of concurrent audit was vast and that any issue, observation should have been resolved in a short span rather than raising it after 6 months completion of 3 year term of concurrent audit. He argued that his re-appointment for further periods of 2014-15 and 2015-16, envisages the quality of work done. He also submitted, in context of the allegation that he had reported all the accounts in his concurrent audit observations and brought the said accounts to the knowledge of the appointing authority that there were certain errors/ violation in respect thereto for which further action had to be taken. He, further, submitted that the Circular No. 402/2011 dated 30-08-2011 clearly stipulated that though there was no overall limit fixed for each category of loan/advances, however, the maximum per borrower exposure should be strictly followed in order to ensure that one single borrower limit was restricted to a certain level. The per borrower limit fixed for Mysore Branch was Rs. 75 Lakhs. He further stated that the said circular was generic in nature and not very specific although it confined the total power of the borrower's limit.

4.2 It was noted that the Complainant Bank had issued vide Circular No. 402/2011 dated 30th Aug, 2011, 'Revision In Delegation of Discretionary Powers To Branch Heads For Sanctioning Of Advances' (R-9 to R-21) which clearly stipulated that the revised powers to the Branch Heads based on the Branch classification being exceptionally large, very large,

large, medium and small branches. It was noted that, as per Annexure 2 to the said circular, the alleged Mysore Branch of the Complainant Bank was classified as 'Medium' branch as on 31.03.2011 at sl. No. 119 and accordingly, Manager Discretionary Power of Rs.5 lakhs was stipulated under 'Agriculture' (R-14) and thus any sanction of any loan beyond Rs.5 lakhs was in clear contravention of Manager Discretionary Power and thus, it was an irregularity which was required to be reported by Respondent in his Concurrent audit report.

4.3 The Committee on perusal of the audit observations noted that Respondent had reported in respect of alleged loan accounts majorly in context of incomplete documentation and related procedures of sanction viz field investigation prior to sanction not conducted. It was noted that nowhere it was reported that the Branch Manager had exceeded his discretionary power.

4.4 The Committee noted that the limit of Rs.5 lakh of the Manager's discretionary power in respect of agricultural loans was very clearly stated in Annexure-I of the circular No. 402/2011 which was much available with the Respondent and thus was of the view that the information / documents/circulars which were part of the routine Banking System/audit by no means could have been ignored by Respondent being the Concurrent auditor of Bank and he was under a statutory obligation to ensure due compliance with internal systems, procedures, guidelines and various directives from RBI /Government etc. Accordingly, in light of the same, it is viewed that the Respondent did not ensure diligence as required under the circumstances and is held GUILTY of professional misconduct under item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to this charge.

5. The Committee noted that the **second allegation** was in relation to tie up tobacco loan for which the Complainant Bank had accorded permission to sanction only for the season 2013-14, however, Mysore branch extended tie up tobacco loan for subsequent seasons also, till 21st April 2016 without any permission which the Respondent failed to report in his Concurrent Report.

5.1 The Committee noted the submissions made by the Respondent in this regard that the Bank had not shared the entire reports and the Bank internal inspection authority, controlling authority etc were thoroughly aware of these loan transactions but none of them ever commented on the lapses and irregularities in these advances. Further, he stated that he had neither received any specific communication stating that tie up loan was valid only for a year i.e. 2013-14 nor the same was brought to his notice by branch office, head office, or inspection department and it was also not available on bank's website where generally the circulars were referred to but while referring to the extract of the partial concurrent audit report available on record, he also submitted

that he had separately listed each category of irregularities under separate headings and observations.

5.2 It was noted that the Complainant had brought on record the communication issued in respect of 'Tobacco Crop Loan under Tie Up Arrangement with M/s. Tobacco Board – Procedure to be followed by Branch' dated 31 July 2013 (R-4 to R-8) wherein while defining nature of loan, overall limit, the season was stated as 2013-14 and it was also specified that the branch was not permitted to exceed the per borrower limit as well as overall ceiling limit without the permission of Central Office. However, the Committee noted that the said communication was addressed only to the Manager of Mysore Branch. On being enquired by the Committee, the Complainant admitted that the said communication was not a circular and this particular communication which governed the tobacco loans was neither figuring in the link provided to the Respondent nor was made part of the circulars which were provided to the Respondent.

5.3 The Committee was of the view that to make the Respondent accountable for reporting the irregularities arising out of violation of the requirements as detailed out in the communication dated 31 July 2013 relating to tie up Tobacco loans, the communication was required to be provided to the Respondent but in light of the submission of the Complainant that the said communication was never served on the Respondent, the requirement of reporting irregularities in the concurrent audit report by the Respondent did not arise. Accordingly, the Committee was of the opinion that the Respondent was NOT GUILTY of professional misconduct under item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949 with respect to this charge.

Conclusion:

6. Thus in conclusion, in the considered opinion of the Committee, the Respondent is **GUILTY** of professional misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 for first charge only.

(A)

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

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

Sd/-
[CA. Chandrashekhar Vasant Chitale]
Member

DATE: 8th February, 2022
PLACE: New Delhi

प्रमाणित सत्य प्रतिलिपि / Certified true copy
Mohite Chandra
सोनी मोहिता खन्ना / CA. Mohita Khanna
सहायक सचिव / Assistant Secretary
अनुशासनमालक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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