



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

[DISCIPLINARY COMMITTEE [BENCH-I (2022-2023)]]

[Constituted under Section 21B of the Chartered Accountants Act, 1949]

**ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT, 1949
READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF
INVESTIGATIONS OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT
OF CASES) RULES, 2007.**

In the matter of:

Shri T. Rajah Balaji, Supdt. of Police, CBI, Bangalore

-Vs-

**CA. Sardar Madhusudan (M. No. 059670), Bankura
[PR/G/229/17/DD/269/17/DC/1413/2021]**

MEMBERS PRESENT:

CA. ANIKET SUNIL TALATI, PRESIDING OFFICER,

SHRI PRABHASH SHANKAR, I.R.S. (RETD.), (GOVERNMENT NOMINEE),

CA. GYAN CHANDRA MISRA, MEMBER,

CA. PRITI PARAS SAVLA, MEMBER

1. That vide findings dated 26.10.2021 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 inter-alia of the opinion that **CA. Sardar Madhusudan (M. No. 059670)**, (hereinafter referred to as the **Respondent**) was **GUILTY** of professional misconduct falling within the meaning of Items (2), (7) & (8) of Part I and Item (1) of Part II of the Second Schedule to the Chartered Accountants Act 1949.

2. That pursuant to the said findings, an action under Section 21B(3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and communication was addressed to him thereby granting an opportunities of being heard in person / through video conferencing and/or to make written & verbal representation before the Committee on 01st June, 2022.

3. The Committee noted that on the aforesaid date of hearing, i.e., 01st June, 2022, the Respondent was present through video conferencing. The Respondent confirmed receipt of the report of the Disciplinary Committee and thereafter, he made his verbal submissions on the findings of the Disciplinary Committee.

4. The submissions of the Respondent on the findings of the Disciplinary Committee, in brief, were as under:-



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i) The Respondent stated that there is a professional misconduct on his part within the meaning of Item (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949. The entire event has happened due to lack of application of his mind at that time and blind belief and faith on Shri Syed Sahul Mareen who requested him for the attestation of the financial statement. The Respondent stated that he did not have any malafide intention and in good faith, he had signed the financial statement.

ii) The Respondent also stated that signing of documents without involving in the process of checking is negligence on his part but there was neither any deliberate intention to give undue benefit to the Company nor he has received any consideration from the Company.

iii) Since he was holding part time COP, he was under impression that he could do the attestation work.

5. The Committee considered the reasoning as contained in findings holding the Respondent Guilty of professional misconduct vis-à-vis written and verbal submissions of the Respondent.

6. Keeping in view the facts and circumstances of the case, material on record including written and verbal submissions of the Respondent on the findings of the Committee, the Committee is of the view that the professional misconduct on the part of the Respondent is established and the ends of justice would be met if a reasonable punishment is awarded to the Respondent in this case. Accordingly, the Committee ordered that name of the Respondent i.e. CA. Sardar Madhusudan (M.No.059670) be removed from the Register of Member for a period of Six months and a fine of Rs.25,000/- (Rupees Twenty Five Thousand) be imposed upon the Respondent to be paid within 90 days of receipt of the Order. If the Respondent fails to pay the fine within stipulated period, his name be removed from the Register of Member for an additional period of one month.

Sd/-
(CA. ANIKET SUNIL TALATI)
PRESIDING OFFICER,

(confirmed & approved through email)
(SHRI PRABHASH SHANKAR, I.R.S. (RETD.))
GOVERNMENT NOMINEE

(confirmed & approved through email)
(CA. GYAN CHANDRA MISRA)
MEMBER

Sd/-
(CA. PRITI PARAS SAVLA)
MEMBER

DATE: 20.06.2022

सही प्रतिलिपि होने के लिए प्रमाणित/
Certified to be true copy

CA. Anurag Sharma
उप सचिव / Deputy 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, Shahdara, Delhi-110032

DISCIPLINARY COMMITTEE [BENCH – I (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

Ref. No. PR/G/229/17/DD/269/17/DC/1413/2021

In the matter of:

Shri T. Rajan Balaji

Supdt. of Police

Central Bureau of Investigation

NO. 36, Bellary Road, 2nd floor

Ganga Nagar

BANGALORE-560 032

.....Complainant

Versus

CA. Sardar Madhusudan (M.No.059670)

Sr. Accounts Officer, Accounts Office,

Damodar Valley Corporation

Mejia Thermal Power Station MTPS,

PO MTPS Durlyapur

BANKURA-722 183

.....Respondent

MEMBERS PRESENT (Through Video Conferencing):

CA. Nihar N Jambusaria, Presiding Officer (Present Physically),

Shri Jugal Kishore Mohapatra, I.A.S. (Retd.) (Government Nominee),

Ms. Rashmi Verma, I.A.S. (Retd.) (Government Nominee),

CA. Anuj Goyal, Member (Present Physically)

CA. Durgesh Kumar Kabra, Member

DATE OF FINAL HEARING : 26.04.2021

PLACE OF FINAL HEARING : Through Video Conferencing

PARTIES PRESENT (Through VC):

Complainant - Mr. A.V.S. Sai, Inspector of Police, CBI, BSFB, Bangalore

Respondent - CA. Sardar Madhusudan

BRIEF OF THE DISCIPLINARY PROCEEDINGS:-

1. The Committee noted that on the day of hearing held on 24.06.2021, the Complainant's representative was present. The Respondent was present. The Complainant's representative and the Respondent were put on oath. On being enquired, the Respondent pleaded not guilty to the charges. Thereafter, the Respondent made his submissions on the charges. While making submissions on the charges, the Respondent admitted his mistake and further stated that it was unintentional mistake on his part. On the other hand, the Respondent did not make any additional contentions on the charges. After hearing the submissions, the Committee decided to conclude the hearing in the above matter.

CHARGES IN BRIEF AND FINDINGS OF THE DISCIPLINARY COMMITTEE:-

2. As regard the background of the matter, the Committee noted that a criminal case was registered against the directors and others of M/s Pavai Alloys & Steel Pvt Ltd (hereinafter referred to as the "**Company**") wherein it was alleged that the accused were involved in a fraud of Rs. 42.17 Crores perpetrated by the Company at Indian Bank, Tiruchengode Branch, Tamil Nadu (hereinafter referred to as '**the Bank**'). In the extant matter, the following charges were leveled against the Respondent:-

2.1 During investigation of the matter by the Complainant Department, it was revealed that the Respondent had signed false audited balance sheets and auditor's certificates under the seal and signature of Madhusudan Sardar, Chartered Accountant, Salem. The balance sheets signed by the Respondent were submitted by the Company to the bank thus, concealing facts and presenting false information to the bank for the year ending 31.03.2008 and 31.03.2013. The Respondent has also certified false stock statement and sundry debtors' statement (Receivables) as on 28.02.2014 without any verification as expected for due diligence in such matters.

2.2 It was also alleged that he was a government servant and as such, he was not entitled to certify balance sheet of the Company.

3. In respect of above charges, the Committee noted that though initially, the Respondent denied the charges yet while making his submission on the same, he admitted his mistake and submitted that it was an unintentional mistake on his part. In respect of first charge related to signing the false balance sheet and auditor's certificates, the Respondent stated that his involvement in the said case was limited to only signing of the financial statements in his personal capacity and not in his professional capacity. It is because he did not put his membership number at the time of signing those documents since he was under the bona-fide belief he was only acknowledging the preparedness of those documents and the statements signed by him could not be treated as authentic documents for any official purpose as he was neither appointed as auditor nor he acted as an auditor of the Company for the financial years 2007-08 and 2012-13.

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3.1 The Respondent stated that there was a conspiracy against him by Mr. Sayed Shahul Meeran (hereinafter referred to as the "Meeran") and pointed out the following aspects relating to the accounts of the Company:-

i) That the Company, M/S Pavai Alloys and Steels (P) Ltd. was a client of Shri K. Jani Basha, Chartered Accountant, Salem and they were related parties. That Shri K. Jani Basha, Chartered Accountant in spite of being a related party was appointed as a Statutory Auditor by the Company.

ii) That Mr. Meeran used to work with the Company. He used to prepare tax statements and Annual Reports for the Company.

iii) That Managing Director of the Company approached Mr. Meeran to prepare different sets of financial statements, one to be filed in ROC and other one in Indian Bank.

iv) That Shri K. Jani Basha was aware of these two sets of financial statements prepared by Mr. Meeran and he never raised concern on it. Instead of stopping Mr. Meeran and informing the Bank, he signed one financial statement for filing with ROC. The Respondent also stated that Shri K. Jani Basha also happens to be the father-in-law of Mr. Meeran.

v) Mr. Meeran emotionally manipulated him (respondent) to sign the statement. Mr. Meeran neither disclosed any background of the case nor the purpose for its preparation but camouflaged under the backdrop of attestation.

vi) The Respondent admitted that he was negligent at the time of signing financial statement and he could not see the adversities since he got emotionally trapped by Mr. Meeran.

4. In respect of above charge, the Committee noted that the Respondent signed the following documents:-

- Form 3CA, CD, Auditor's Report alongwith its financials for the year ended 31st March, 2008
- Auditor's Report alongwith its financials for the year ended 31st March, 2013
- Other documents including Provisional financials as at 31st October, 2013, Stock statement as on 28th February, 2014, Statement of Sundry Debtors as on 28th February, 2014, Statement of Sundry Creditors as on 28th February, 2014

4.1 The Committee also noted the submissions of the Respondent that he had blindly relied upon Mr. Meeran and signed the financial statement and other documents on his request without verification of the relevant documents. It is also noted that the Respondent was neither

appointed as auditor nor appointed for any professional assignment. Further, the statement of Mr. Meeren recorded by the CBI confirmed the submissions of the Respondent and the fact that two sets of financial statements were prepared and one set got signed from Shri K. Jani Basha and second set was signed by the Respondent. The relevant extract of the statement of Mr. Sayed Shahul Meeran are reproduced as under:-

"...I prepared financial statements of M/S Pavai Alloys and Steels (P) Ltd. for the year as on 31.03.2008 and 31.03.2013 for filing with Indian Bank, Tiruchengode. I state that aforesaid financial, statements were prepared by me as per the trial balance and sales-purchase details and closing stock which was declared to Indian Bank by the company. I further state that Shri V. Kuppusamy has told me that the figures to be shown in the profit and loss account and balance sheet in accordance to credit facilities taken from Indian Bank. Accordingly on the basis of the trial balance and sales -purchase details and closing stock statement, I prepared the financial statements for the year as on 31.03.2008 and 31.03.2013. I further state that I prepared two different balance sheets for filing with ROC and Indian Bank for the year as on 31.03.2008 and 31.03.2013 (W-28)."

"...that the Balance Sheet as on 31.03.2008 filed with ROC was signed by Shri K Jani Basha and the Balance Sheet as on 31.03.2008 filed with Indian Bank was signed by Shri Madhusudan Sardar (W-33)."

"... that the above said difference has been shown to maintain the drawing of the OCC limit sanctioned by the Indian bank, Tiruchengode and I did the same on the request of Shri Kuppusamy. I state that Shri V. Kuppusamy has provided me trial balance, stock statement given to the Indian bank, previous year financial statement filed with the Bank, fixed assets purchase details and debtors and Creditors list for the preparation of said balance sheet (W-33)."

"...Shri K. Jani Basha is my father-in-law and I was residing in the office-cum-residence of Shri K. Jani Basha during the period from 2006 to 2009. I state that the company has made a payment of Rs. 1,00,000 and above through cheque for signing the said financial documents as on 31.03.2008. I further state that at that time Shri. K. Jani Basha had knowledge for filing .different set of financial statement to Indian Bank. I further state that in that time Shri K. Jani Basha had told to Shri V. Kuppusamy that he will not sign the different balance sheet to the bank because he is the statutory auditor of the Pavai Alloys and Steels (P) Limited and he is filing the income tax return and Form 3CA and 3CD and apart from that he was filing annual report and returns of the company with the Registrar of Companies, as such Shri V. Kuppusamy had contacted me and asked for the attestation from known chartered accountant to me. I further state that in this regard I had contacted over phone to Shri Madhusudan Sardar, Chartered Accountant regarding for attestation of said financial statement. I further state he agreed for the attestation work and he told me to send the papers in his office address, after taking the print out and getting the signature from Shri V. Kuppusamy, Managing Director and Shri K. Bhaskaran, Commercial Director,

I had sent that signed copy thorough DTDC during the month of July or August 2008 to Shri Madhusudan Sardar for attestation the same. I further state that after signing the said financial statement, Shri Madhusudan Sardar had send back the said documents to me through Courier (W-33 to W-34)."

The Committee also observed that similar confession was made with respect of other alleged documents signed/ certified by the Respondent and similar understanding between the Respondent and CA. Sayed Shahul Meeran is reflected from the confession which reads as follows:

"... Shri Madhusudan Sardar is my good friend and we always remain in touch through phone, however we did not meet for last 10 years. I further state that I used to send balance sheets and other financial statements to Shri Madhusudan Sardar relating to different companies viz. Sri Krishna Alloys, Sankari; NGA Steels, Tiruchengode, Pandiyarajan Steels.Sankari etc. for attestation. I further state that I also used to send project reports of different clients to Shri Madhusudan Sardar for the purpose of bank loan (W-39)."

- 4.2 It is also observed from the financial statements submitted with ROC that the firm, M/s Jallaluddin & Jani Basha was auditor of the Company. On the contrary, the Respondent could not bring on record any documentary evidence to establish that he was appointed as auditor of the Company or he had checked and verified the necessary documents before signing the financial statement of the Company. The Committee is of the view that before signing the financial statements and other statements, the Respondent was required to verify his appointment and records of the Company but he failed to do so. In view of above, the Committee opined that the Respondent was grossly negligent in conduct of his professional duties and the Company took undue advantage of the said negligence of the Respondent and submitted the financial statement to the bank. Accordingly, the Committee decided to hold the Respondent guilty of professional misconduct falling within the meaning of items (2), (7) & (8) of Part I of Second Schedule to the Chartered Accountants Act, 1949.
5. In respect of second charge relating to signing the financial statement while in full time employment with Damoder Valley Corporation, the Respondent stated that at that time he had reasons to believe that he was not required any authorization from his present employer for signing the financial statement because he signed the financial statements and other documents in his personal capacity only for acknowledging the preparedness of those documents. Secondly, he was holding a valid COP for part-time practice and every year he was disclosing it to the CA Institute alongside his status of current employment. The Respondent further stated that even today he continues to hold his COP.
- 5.1 In respect of above charge, it is noted that during the period of allegation, the Respondent was holding part-time COP and he was also in employment with Damodar Valley Corporation.

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The Respondent signed the statutory audit report, financial statement of the Company and certified other documents thus taking on professional works that are permitted to be undertaken by a member who is in full time practice and not employed elsewhere. Further, Regulation 190A of the Chartered Accountants Regulations, 1988 prohibits a member in practice to engage in other business or occupation. The provisions of Regulations 190A reads as under:-

"Regulation 190 A

190A. Chartered Accountant in practice not to engage in any other business or occupation

A chartered accountant in practice shall not engage in any business or occupation other than the profession of accountancy, except with the permission granted in accordance with a resolution of the Council."*

It is noted that (*) in Regulation 190A refers to Appendix 9 and the Resolution passed by the Council under the said Regulation, inter-alia, reads as under:

AS A PART OF AND IN CONTINUATION OF THE EXISTING REGULATION [UNDER REGULATION 190A, WHICH APPEARS AS APPENDIX NO.(9) TO THE CHARTERED ACCOUNTANTS REGULATIONS 1988 (2002 EDITION)]

"IT IS FURTHER RESOLVED that the general and specific permission granted by the Council is subject to the condition that -

- *any member engaged in any other business or occupation, in terms of general or specific permission granted as per Appendix No.(9) given above shall not be entitled to perform any attest function....*

• ...

• ...

The Council in this connection also clarified that the Attest function for the purpose of this Resolution would cover services pertaining to audit, review, certification, agreed upon procedures, and compilation, as defined in the Framework of Statements on Standard Auditing Practices and Guidance Notes on Related Services published in the July, 2001 issue of the Institute's Journal.

5.2 From the above, it is clear that a member in full time employment is not allowed or permitted to perform various attest functions. Hence, it is viewed that the Respondent violated the provisions of aforesaid Regulations and thus, he is guilty of "Professional misconduct" falling within the meaning of Item (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949.

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Conclusion:-

6. Thus in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional Misconduct falling within the meaning of Items (2), (7) & (8) of Part I and Item (1) of Part II of Second Schedule to the Chartered Accountants Act, 1949.

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

[approved and confirmed through e-mail]
(SHRI JUGAL KISHORE MOHAPATRA,
I.A.S.(RETD.)), GOVERNMENT NOMINEE

[approved and confirmed through e-mail]
(MS. RASHMI VERMA, I.A.S. (RETD.))
GOVERNMENT NOMINEE

[approved and confirmed through e-mail]
(CA. ANUJ GOYAL)
MEMBER,

[approved and confirmed through e-mail]
(CA. DURGESH KUMAR KABRA)
MEMBER

Date:- 26/10/2021

Jyotika
प्रमाणित सत्य प्रतिलिपि / Certified true copy

सीए. ज्योतिका ग्रोवर / CA. Jyotika Grover
सहायक सचिव / Assistant Secretary
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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