

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – IV (2023-2024)]

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

Findings under Rule 18(17) and Order under Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

File No. : [PR/169/2016/DD/237/2016/DC/777/2018]

In the matter of:

**Shri Kuldip Kumar
Chief Manager
Punjab National Bank
Inspection & Audit Division,
Head Office, Rajendra Place
Rajendra Bhawan,
New Delhi – 110008**

.....Complainant

Versus

**CA Harmeet Singh (M. No. 501262)
C/o M/s Harmeet Singh & Co.
Shop No. 154, DDA Market
J Block, CC - Rajouri Garden,
New Delhi – 110027**

.....Respondent

MEMBERS PRESENT: (In person)

**CA. Ranjeet Kumar Agarwal, Presiding Officer (In person)
Shri Jiweh Nandan, Govt. Nominee (In person)
Ms. Dakshita Das, Govt. Nominee (In person)
CA. Mangesh Kinare (In person)
CA. Cotha S Srinivas, Member (In person)**

DATE OF FINAL HEARING : 19.04.2023

PARTIES PRESENT

Respondent:

CA. Harmeet Singh (Though VC)

1. Background of the case:

The Respondent was the concurrent auditor from 1st February 2011 to 31st January 2013 of Punjab National Bank for concurrent audit of Najafgarh Delhi Branch. The claim of Complainant is that Respondent has failed to report serious irregularities in his audit reports which needs to be submitted to Zonal Audit Office, Faridabad. The Complainant has stated that the Respondent has been depanelled by Bank with effect from 06.04.2015. The Respondent in his written statement has stated that he has not received the confirmation regarding his de-panelment from the Punjab National Bank.

2. Charges in Brief: -

2.1 The Respondent CA firm was appointed by Punjab National Bank to conduct concurrent audits of the Najafgarh Delhi Branch from 01st February 2011 to 31st January 2013. It is claimed that numerous high-value borrowal frauds were identified at the branch during the audit period conducted by the Respondent firm. In this context, it is crucial to note that mortgages on immovable properties were established based on fraudulent title deeds. The said CA firm, however, failed to report these significant irregularities in his quarterly audit reports submitted to the Zonal Audit Office in Faridabad.

3. The relevant issues discussed in the Prima facie opinion dated 28th September 2017 formulated by Director (Discipline) in the matter in brief is given below:-

3.1 The primary responsibilities of the concurrent auditor, as outlined in the Bank's Inspection Manual are clearly lay down the work responsibilities and domain of the auditor. Based on the response submitted by the Respondent during the investigation of NPA (Non-Performing Asset) fraud, it was mentioned the primary responsibility of loan disbursement was of the Branch Incharge and the concurrent auditor has the responsibility of pointing out any irregularity in carry forward of defaulters to the next financial period, which has been duly complied by the Respondent . It's essential to note that the Legal Compliance

Certificate issued by the Respondent, as per I & A D Circular Letter No. 20/2003 dated October 31, 2003, requires concurrent auditors to review the Legal Compliance Certificates sent by branches to their controlling offices. However, the concurrent auditor was not certifying the content of the Legal Compliance Certificate .

3.2 In the report of examination of staff accountability it was mentioned in column 4 by the Bank inspection officer that "Since the CA firm left within 21 days from the date of sanction, they may not be held responsible for not checking." Thus, it is evident that an auditor, after the expiration of their audit tenure, cannot be held responsible for changes in the circumstances of business transactions. Consequently, the Respondent does not appear to be guilty of professional misconduct.

3.3 Further, the Directorate noted that the Complainant Bank has not provided any concrete evidence to support his allegation against the Respondent. Furthermore, the Respondent has replied to the allegations based on his own audit work. The Complainant Bank has provided the lists of 20 Accounts and their staff accountability in respect of accounts of M/s Omega International, the concurrent audit reports and the workings of the Respondent were obtained at the stage of seeking additional documents under Rule 8(5). Thus, the charges against the Respondent do not survive in absence of clear evidences of negligence as being alleged.

3.4 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 had been held Prima Facie NOT GUILTY of Professional misconduct falling within the meaning of Clause (7) of Part (I) of the Second Schedule to the Chartered Accountants Act, 1949. The said clause to the Schedule to the Act. states as under: -

Clause (7) of Part I of Second Schedule:

“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.”

3.5 The Board of Discipline considered the Prima Facie Opinion dated 28th September 2017 of the Director (Discipline) along with the Complaint, Written Statement, Rejoinder, and additional documents on record. The Board on consideration of the prima facie opinion, was of the view that in the fraud perpetrated on account of Omiga International (details of which has been included in the list of 20 loan cases) and submitted that the credit limit in respect of this account has been increased from Rs. 49 lacs to Rs. 149 lacs on 10th January 2013 which is within the tenure of Respondent firm. The Respondent had not filed any reply for ongoing investigations in connection with the said matter. Therefore, the Board did not agree with the view of the Director (Discipline) as contained in Para 11.1 of the Prima Facie Opinion that an auditor after the expiry of his audit tenure cannot be held responsible in case there is any change in the circumstances of the business transactions.

3.6 The Board of Discipline was of the view that the irregularities could have been found out during the audit period and hence, **did not agree** with the prima facie opinion of the Director that the Respondent is Prima Facie NOT GUILTY of Professional Misconduct falling within the meaning of Clauses (7) Of Part I of the Second Schedule to the Chartered Accountants Act, 1949 and referred the matter to the Disciplinary Committee to proceed under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

4. Date(s) of written submissions/pleadings by parties:

The relevant details of filing of documents in the instant case by the parties are given below:

| S.No. | Particulars | Dated |
|-------|---|------------------------------------|
| 1. | Complaint in Form 'I' filed by the Complainant | 19 th August 2016 |
| 2. | Written Statement filed by the Respondent | 7 th December 2016 |
| 3. | Rejoinder if any | 30 th January, 2017 |
| 4. | Prima facie Opinion by Director(Discipline) | 28 th September, 2017 |
| 5. | Written Submissions by the Respondent after PFO | Yes, Dated 25.07.2018 & 10.12.2019 |
| 6. | Further Rejoinder submitted by Complainant before the Committee | Yes, Dated 28.08.2018 & 25.11.2019 |

5. Brief facts of the Proceedings:

5.1 The details of the hearing(s) fixed and held/adjourned in said matter is given as under:

| Particulars | Date of Meeting(s) | Status |
|----------------------|---------------------------------|---|
| 1 st time | 29 th August 2019 | Part heard and Adjourned |
| 2 nd time | 17 th October 2019 | Part heard and Adjourned |
| 3 rd time | 21 st November 2019 | Part heard and Adjourned |
| 4 th time | 11 th April 2023 | Fixed and adjourned due to paucity of time. |
| 5 th time | 19 th April 2023 | Hearing concluded and Judgement Reserved |
| 6 th time | 05 th September 2023 | Judgement delivered |

5.2 On the day of first hearing on 29th August 2019, the Committee noted that the Complainant was present. The Respondent along with his Counsel was also present. The Complainant and the Respondent were put on oath. The Complainant stated that he has already submitted all the documents and submissions. The Respondent requested for adjournment of the hearing as his main Counsel was not present. On perusal of the documents on record, the Committee directed the Complainant to submit details / instances of specific failure on the part of the Respondent and documentary evidence in support of thereof. With these directions to the Complainant, the hearing in the matter was adjourned.

5.3 Thereafter, on the day of second hearing on 17th October 2019, the Committee noted that the Complainant and Complainant Bank's representative were present and the Respondent along with his Counsel were also present. The Complainant Bank's representative made his submissions. The Counsel for the Respondent made his submissions on the charge and stated that he has seen the valuation report and verification reports. The Respondent also submitted that he had verified title deed & other documents on record and had reported irregularities. He also submitted that loan enhancement was made on 10.01.2013 whereas his tenure as a concurrent auditor was ended on 31.01.2013. He also pointed out that the Investigation Officer of Bank stated in his report that Respondent firm left within 21 days of sanction of loan , and thus he may not be held liable. The Committee enquired from the Complainant as to whether verification report, valuation report and original title deeds were on record, the Complainant answered negatively. The Respondent contended that he had not received the Questionnaire which was alleged to be sent to him on 15.12.2014 otherwise he would have replied to the queries raised in the Questionnaire. The Committee directed the Complainant to file submissions on the reply dated 25.07.2018 of the Respondent and further directed to submit the documentary evidence to show that the Questionnaire was delivered to the Respondent.

5.4 Thereafter, on the day of third hearing on 21st November 2019, the Committee noted that the Complainant and the Respondent along with Counsel(s) were present. The Respondent stated that he has not received any response from the Complainant with respect to the response of nine issues raised by the Complainant in the alleged Questionnaire. The Complainant stated that they could not locate/ trace the evidence of proof of delivery of the alleged Questionnaire which has been sent to Respondent. Thereafter, the Complainant submitted documents with a copy to the Respondent. Thereafter, the Complainant submitted the copy of documents, on perusal of the same, the Counsel for the Respondent stated that the aforesaid document is not signed and cannot be relied upon. On the same, the Committee directed the Complainant to submit signed copy of the documents.

5.5 The response of Respondent dated 25.07.2018 with respect to the alleged questionnaire sent by the investigating officer of the PNB Bank and Rejoinder of the Complainant dated 25.11.2019 thereon is as follows:

| S.No. | Observation by PNB Bank | Respondent's response on the observation by Bank | Complainant's view on Respondent's submission | Respondent's submission on Complainant's response |
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| 1 | At the time of enhancement of loan/credit limit on 10/01/2013 from Rs. 49 Lacs to Rs. 149 Lacs in the account of M/s Omiga International, projected sales of Rs. 750 Lacs | As auditors the Respondent cannot comment on the drafting of the Sanction note which is a responsibility of the officials of the Bank who draft the same on the best of their | No proper justification was given by the sanctioning authority for accepting the projected sales at a higher side in the process note at the time of enhancement of the limit. As per the inspection manual chapter-2, "Items concurrent auditors should attend to daily" at serial no. 10 it is | The views of PNB officials are without application of mind. In the sanction appraisal note, it is clearly mentioned that "The firm has achieved sale of Rs. 415.25 lac as on 31.12.2012- CA certified copy placed on record. Presently the firm is |

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| | accepted against sales of Rs. 333.93 Lacs for financial year 2011-12 which was unrealistic and very high side. | experience and judgment. Further as per the RBI Guidelines on Concurrent Audit as laid down in the Master Circular on Inspection and Audit Systems – “A concurrent auditor may not sit on judgment of the decisions taken by a branch manager or an authorized official. This is beyond the scope of concurrent audit.” | mentioned that Pre-sanction appraisal in respect of loans sanctioned, limits enhanced or renewed. However, the auditor did not make any observation on lack of justification. | availed CC limit of Rs 49 lac and party has received order worth Rs. 100 lac per month. Then the party has requested to enhance its limit from Rs. 49 lac to Rs. 149 Lac, hence the present proposal” Therefore the sanction appraisal note itself justifies the projected turnover of the borrower. Hence, the Concurrent Auditor cannot be held responsible on this ground. |
| 2 | BM visit cum valuation report of 2 nd mortgaged IP at DDA SFS Flat no. 90 First Floor Pocket 13, Sector 5, Narela Residential Scheme Delhi- not held on record | This was on record when audit was conducted. The BM visit date is also mentioned in the Schedule I of the Legal Compliance Certificate which was deposited by the Branch Incharge within 7 days of end of | As confirmed by BO: ARMB Delhi, the BM visit cum valuation report was not held on record. The limit was enhanced on 10.01.2013 and the BM visit cum valuation report is part of the pre-sanction appraisal and its compliance cannot be postponed till submission of LCCAs per the Inspection Manual Chapter | The sanction appraisal note attached of PNB views as on 25.11.2019, it is clearly mentioned that the valuation date by Bank approved valuer is 31.01.2012 and 01.12.2012 for both the properties mortgaged in the account. The Respondent has further stated that the visit date was also mentioned in |

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| | | <p>Month in which enhancement is made. It is further confirmed by the Concurrent Auditor in the Legal Compliance Audit Certificate that is submitted after the Quarter end. Since our tenure ended on 31-01-2013 the Legal Compliance Certificate would have been issued in February 2013 and the same would have been checked by the New Concurrent Auditor at time of issue of Legal Compliance Audit Certificate</p> | <p>1 Para 4.1 it is clearly prescribed that "Role of concurrent auditor is to focus on (a) identification of irregularities/deficiencies on concurrent basis and (b) spot rectification of irregularities/deficiencies, thus enforcing of systems and procedures." Further as per para 8.1 it is prescribed that "the outstanding irregularities of daily reports are carried over to 'monthly report' at the end of the month". However, the auditor failed to point out the irregularity in his daily/monthly reports</p> | <p>the Schedule I of the Legal Compliance certificate which was deposited by the Branch Incharge within seven days of end of month in which enhancement is made. The Complainant was intentionally concealing the Legal Compliance certificate which will demonstrate all compliances.</p> |
| 3 | <p>Affidavit not obtained as per legal advice. 2 Original death certificate of Jai Bhagwan Gupta not held. 3 Letter of continuity not</p> | <p>The Legal Compliance Certificate was due to be submitted by the Branch Incharge in February 2013 Le, within 7 days of end of Month in</p> | <p>The reply of the Respondent is vague and does not relate to the observations pointed out. It is reiterated that as per the Inspection Manual Chapter 1 Para 4.1 "Role of concurrent Auditor is to focus on (a) identification of</p> | <p>The visit date is also mentioned in the schedule I of the Legal Compliance certificate which is deposited by the Branch Incharge within 7 days of end of month in which enhancement is made.</p> |

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| | <p>obtained in respect of IP Flat C-121 at Karampura on enhancement</p> <p>4 Letter of intent not properly filled up and letter acknowledgement receipt of title deed has not been sent by the branch to the depositor in respect of IP DDA SFS Flat no. 90 First Floor, Pocket 13, Sector 5, Narela Residential Scheme Delhi</p> | <p>which enhancement is made. It is further confirmed by the Concurrent Auditor in the Legal Compliance Audit Certificate that it was Submitted after the Quarter end ie. in April 2013. Since Respondent's tenure ended on 31.01.2013 the same would have been checked by the New Concurrent auditor at the time of issue of Legal Compliance audit certificate in April 2013</p> | <p>irregularities/deficiencies on concurrent basis.</p> <p>(b) spot rectification of irregularities/deficiencies, thus enforcing of systems and procedures. Since the date of sanction of enhancement is 10.01.2013 the irregularities should have been pointed out therein. The responsibility of the auditor in pointing out irregularities is in no way be negated by status of submission of LCC by the branch.</p> | |
| 4 | <p>Property declaration form & annexures-6 not obtained as per law division Circular. No13/2013</p> | <p>Respondent's tenure ended on 31-01-2013 and the circular was issued on 18-June-2013 after ou tenure (copy attached as Annexure-1)</p> | <p>Guidelines for obtainment of property declaration form were prescribed in Law Division circular 9/2009 dated 27-08-2009 in which was operative at the time of sanction/enhancement of loan. However at the time of preparation of the</p> | <p>The Questionnaire referred to circular issued in June 2013 which was after the Respondent's tenure. Even otherwise the 2009 circular of Law Department is about the instructions given to the</p> |

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| | | Hence he cannot be held responsible for same no being on record. | investigation report, the said circular was superseded by Law Division Circular no13/201 which has been quoted by the Respondent. Law Division circular no. 13/2013 reiterated the same guidelines as in Law Division Circular no09/2009 and hence the guidelines we well operative during the tenure of Respondent. Therefore, it is clearly a failure on the part of Respondent to point out the irregularity in his reports | counsel i.e. Empanelled Advocates to incorporate certain points in their title search report which is the responsibility of Empanelled Advocates. The points mentioned in the 2009 circular have been incorporated in the Title search report attached by the Complainant. The circular of 2009 referred to by the Complainant was not applicable to the Respondent as Concurrent Auditor. Therefore, the views of Complainant on this point cannot be accepted by Hon'ble Disciplinary Committee. |
| 5 | CR's not prepared at the time of enhancement on 10.01.2013 | These were on record when audit was conducted | CR available in the files was dated 07.03.2012 whereas enhancement done 10.01.2013. As per the guidelines, fresh CR needs to be prepared at the time of renewal/enhancement of the limits. The Respondent failed to point out the same in his report. | The views of PNB Bank are in contradiction to the sanction appraisal note attached by the Complainant. The clause 7 (A) (i) on Page 8 of sanction appraisal note clearly shows that the analysis of Financial position of the Borrower's Firm as on 31.03.2012 was part of |

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| | | | | <p>the appraisal note and the Complainant has willfully avoided to submit the annexure of the said appraisal note to support their misstatement. Sanction appraisal note clearly shows that in the appraisal procedure the Complainant has considered financials based on the Audited Balance Sheet of 31.03.2012. Therefore, the contention of the Complainant that the CR was not prepared or kept on record cannot be accepted.</p> <p>The sanction appraisal note clearly proves the submission of Respondent that the same was there at time of Audit. The Concurrent auditor cannot be held responsible/questioned if the PNB is unable to trace the existing documents in its office.</p> |
| 6 | Credit Risk Rating on the basis of ABS 31.03.12 not done | These were on record when audit was conducted. | As confirmed by BO: ARMB Delhi, the CRR was not held on record in the | The sanction appraisal note clearly demonstrate the submission of |

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| | at the time of enhancement | | file. | Respondent that the same was there at time of audit. The Respondent being the concurrent auditor cannot be held responsible/questioned if the PNB Bank was unable to trace the existing documents in its office. The Complainant is relying on email dated 15.11.2019 sent from PNB's branch (ARMB) and is again misleading the Hon'ble DC to support that the question raised in the questionnaire was a valid question to the Respondent and is not reporting the true fact that the CRR was done as mentioned in the sanction note and had been relied. |
| 7 | Party was maintaining current account with HDFC bank Mayapuri Branch, account statement is held in record. Need for such account not | Respondent being the Concurrent auditor cannot question the judgment of the Branch Incharge and the since the statement was on | Maintenance of current account by a party availing cash credit limit from us may lead to siphoning off of funds and it is the responsibility of the Respondent to point out if there exists any such | The sanction appraisal note as on 25.11.2019 on Page 11 mentioned that the enhancement was sanctioned as per the terms and conditions given in Annexure-I attached to the sanction |

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| | <p>asked for.</p> | <p>record and the Branch Incharge had agreed to permitting the Borrower to continue operating the HDFC Bank Respondent as Concurrent Auditors cannot comment or question the Authority or Judgment of the Sanctioning Authority.</p> | <p>possibility of siphoning off. Further no approval for continuance of such an account was taken. Hence it was well within the duty of the Respondent to point out the irregularity.</p> | <p>letter. The permitting of the HDFC bank account was a known fact and can be verified from the terms and conditions of the sanction letter or a separate communication to the borrower permitting the borrower to permit the operation in HDFC Bank. Even otherwise the Complainant has not reported any diversion/siphoning of funds in this case. The Complainant has intentionally not annexed the copy of terms and conditions to the sanction appraisal note to mislead the Hon'ble DC to support that the question raised in the Questionnaire was a valid question to the Respondent. It was an admitted fact that there was no diversion/siphoning of funds either reported or mentioned in the complaint. Therefore, this question is anyways</p> |
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| | | | | not relevant in adjudication of this complaint. |
| 8 | Certified copy of Title Deed of IP Flat C-121 at Karampura not obtained | The same is obtained by the Empanelled advocate who confirms the same in his/her Legal Search Report. The Legal Opinion report is on record and the fact can be better checked from the Legal opinion report which is issued by Advocate only after confirming that the Sub-Registrar Records have been checked and certified copy has been obtained | As confirmed by BO: ARMB Delhi, certified copy of title deed not held on record. The Legal search report nowhere confirms obtainment of certified copy title deed. Further in his certificate it is confirmed that "I have returned the photocopies of title deeds and other documents shown to me, to the borrowers". Hence it is found that the reply made by the auditor is untrue. | The point 3,5,6 and 7 in Par B of title search report clearly mentioned that the Advocate had obtained the certified copy of the property papers and has tallied the original documents and confirms that the contents of both documents are same. Further advocate is confirming that there is no doubt or suspicion in original title deeds i.e property papers. |
| 9 | Certificate of Visiting of IP at DDA SFS Flat no. 90 First Floor, Pocket 13, Sector 5, N Residential Scheme Delhi by you not held on record | As per the guidelines the property is to be visited by the concurrent auditors within 45 days of full disbursement. As on 31.01.2013 full | As per the inspection manual chapter 2, annexure 1, page 29 "Norms for security checking by regular/concurrent auditors" it has been prescribed that "Independent verification of | The Complainant has accepted the reply of Respondent in toto and has given concurrence for dropping of the question/allegation, Respondent's rejoinder is not required. |

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| | | disbursement was not done and hence the visit was not due and the same would have been done by the new concurrent auditors. | primary as well as collateral securities would be conducted within 45 days from the date of full disbursement of sanctioned amount. The total disbursement made in the account as on 31.01.2013 was Rs. 14736839/- The Complainant has stated that, with the reply of the Respondent he may drop the said observation. | |
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5.6 Thereafter, in the meeting held on 19th April 2023, the Committee noted that the Respondent was present through Video Conferencing Mode for the hearing and the Complainant Bank was not present despite the fact that proper notice was duly served upon them. The Committee noted that this case was part heard on 21st November, 2019 and was pending for hearing and decision by the Committee. The Committee asked the Respondent to make his submissions in the matter. The Respondent made his detailed submissions and stated that he has nothing more to submit in this case. After recording the submissions of the Respondent, written submissions of the Complainant and papers/documents available on record, the hearing in the matter was concluded, and judgement was RESERVED.

5.7 Thereafter, in the meeting held on 05th September 2023, the Committee noted that the matter was heard and concluded in its meeting held on 19th April 2023 and the judgement was reserved on the basis of various documents on record. After considering the documents and information available on record and considering the oral and written submissions made by the Respondent and

Complainant and the documents available on record, the Committee passed its judgement on 05th September 2023.

6. Findings of the Committee

The Committee noted the background of the case and gave its findings as under:

6.1 The Committee noted that the Respondent vide his Written submissions dated 25th July 2018 has also submitted that that he was not given opportunity of being heard by the Complainant Bank and the same was against the principles of natural justice. The Higher Authorities of Complainant Bank have gone against the findings and recommendations of their own Investigating Officer, who also recommended that the Respondent to be not guilty in the case. The Respondent has replied to all the queries / clarifications desired by Complainant Bank from time to time but no Questionnaire for M/s. Omega International was ever served upon the Respondent. The questions asked in the Questionnaire were general and none of the questions was in the scope of Concurrent Auditor and instead were the responsibilities of the Branch in-charge, empaneled Advocates and Valuation Experts.

6.2 The Respondent submitted that working capital loans (CC Limits) to M/s Omega International were short term loans sanctioned for one year and have to be renewed every year based on latest financial information submitted by the borrower and subject to meeting all the acceptable parameters. The processing charges on renewal of account for the year 2013-14 were recovered on 15/05/2013 and for the year 2014-15 the same were recovered on 11/07/2014. In addition to the processing fees, the documentation charges and insurance charges for years 2013-14 & 2014-15 were recovered on 31/05/2014. The renewal/ review was done in the years 2013-14 and 2014-15 when the Respondent was not the auditor of the branch.

6.3 The Respondent also submitted that the Complainant has informed in his Rejoinder that the date of De-empanelment of Respondent's firm is 06.04.2015 however, he had not received any communication from the Complainant Bank. The

Punjab National Bank had already scrapped its Concurrent Auditor panel in 2014 and had called for fresh applications for empanelment in 2014.

6.4 The Respondent further submitted that the loan of M/s Omiga International was sanctioned and disbursed by PNB, the mortgaged property is accepted as collateral security after taking legal search report from PNB empanelled Advocates and after taking valuation report from PNB empanelled valuers. The legal vetting of the mortgage documents was also done by Empanelled advocates and if there was any discrepancy it was reported in the monthly/ quarterly reports.. The Concurrent auditors are not legal/ valuation experts and are not required by any prevalent guidelines of Punjab National Bank/RBI to comment on the findings or to question the findings of other experts empanelled by the Bank.

6.5 The Committee noted that the Complainant vide his Rejoinder dated 28th August 2018 submitted that the Internal Chief Auditor (investigating officer) who conducted an enquiry into the matter, sent a Questionnaire to the Respondent on 15/12/2014 asking them to submit their views within 15 days. But the Respondent chose to ignore the opportunity and did not submit any reply. Before de-paneling, the Respondent from the panel of concurrent auditors, the Respondent were again given an opportunity by Zonal Audit Office, Faridabad vide letter dated 08/04/2015 to submit their reply giving clarifications, but again, no reply was received from the Respondent. The complainant further reiterated the submissions of non-reporting of irregularities during the concurrent audit of Branch Office at Najafgarh.

6.6 The Committee noted that the Respondent vide his further Written submissions dated 10th December 2019 has submitted that the Complainant Bank had no evidence to prove the delivery of the Questionnaire to the Respondent. Therefore, the matter should be dropped by the Hon'ble Committee in the interest of justice since the whole matter and the opinion of Disciplinary Directorate of declaring Respondent as Not Guilty was rejected by the Board of Discipline on the sole ground the Questionnaire was not responded by the Respondent.

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6.7 The Respondent has submitted that the Complainant has given the misleading information to Disciplinary Directorate stating that Punjab National Bank had already scapped its concurrent Auditor panel in 2013 and again in 2014, it had called for fresh applications for empanelment in 2013 and 2014. The Respondent submitted that he did not apply for empanelment since he was in cooling period.

6.8 The Committee noted that the bone of contention in the matter is that Respondent has not replied to the alleged Questionnaire which was claimed to be served by the Punjab National Bank for which Complainant failed to produce any documentary evidence to substantiate his claim. The Committee further observed that it is the settled proposition of law that the onus of proving the contention always lies on the Complainant but in the instant matter, the Complainant has failed to produce proof of delivery that the said Questionnaire has been delivered to Respondent.

6.9 The Committee observed that the Punjab National Bank in its finding by the investigation officer on examination of staff accountability in respect of account M/s. Omiga International has reported that the audit firm has completed the concurrent audit assignment at the end of January 2013, and therefore they may not be held responsible for not checking the irregularities. The investigation officer further observed that as per the inspection manual independent verification of primary as well as collateral securities would be conducted within 45 days from the date of full disbursement of sanctioned amount. Against the said finding of investigation officer of the bank, the Deputy General Manager (DGM) ZAO of the Bank has observed that the Respondent firm has not pointed out any irregularities in their IR and also not checked the IP mortgaged in the and have also not submitted reply to observations sent by investigation officer of the Bank. And therefore, it was recommended for depanelment of the Respondent firm; and the said view of DGM of the bank was finally accepted. The Committee noted that the Respondent has contended that the impugned questionnaire which was claimed to be delivered by the Bank was never

delivered to him; and if it were delivered at the relevant time, he would have given point wise reply to the questionnaire. The Committee took note of the fact that the Bank has taken the decision for depanelment of the Respondent firm primarily placing reliance on the fact that the Respondent did not submit his reply to the questionnaire of the Bank. The Committee further noted that the Complainant Bank was given an opportunity to produce the proof of delivery of questionnaire at the relevant point of time during the hearing stage which the Bank failed to bring on record. In view of the same, the Committee felt that since the Bank has failed to produce the proof of delivery, the submission of the Respondent that the recommendation of depanelment of Respondent firm was taken by the Bank without affording an opportunity of hearing/response be given weightage.

6.10 The Committee after considering the submissions of the parties, observed that the review of the loan in the year 2013-14 and 2014-15 were done by auditors other than the Respondent firm as the tenure of the Respondent firm had already ended on 31.01.2013, and that the commission of fraud came to light only when the loan account became NPA on 30.09.2014 which was after the period of completion of audit assignment by the Respondent firm. The Committee noted that the sanction of the loan was the responsibility and decision of the officials of the Bank and as per the relevant RBI guidelines on concurrent audit, a concurrent auditor is not supposed to sit in judgement of decisions taken by a branch manager or an authorized Bank official, which was beyond the scope of concurrent audit. However, the role of concurrent auditor is to focus on a) identification of irregularities/deficiencies on concurrent basis, and b) spot rectification of irregularities/deficiencies thus enforcing of system and procedure. The Committee observed that the Bank approved valuer has undertaken the valuation for the properties mortgaged in the account of M/s. Omega International and the Advocates report mentioned the fact that no defects in the title of the properties was found and that the property were mortgaged .

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6.11 The Committee further emphasized on RBI Guidelines on Concurrent Audit as laid down in the Master Circular on Inspection and Audit Systems. The relevant portion of which to be read as under:

"A concurrent auditor may not sit in judgement of the decision taken by bank/branch Manager or an authorised official. However, the auditor will necessarily have to see whether the transactions or decisions are within the policy parameters laid down by the Head Office/Board of Directors, they do not violate the instructions or policy prescriptions of the Reserve Bank of India and that they are within the delegated authority and in compliance with the terms and conditions for exercise of delegated authority."

6.12 The Committee took note of the fact that Investigation officer had mentioned in column 4 of the report of examination of staff accountability that 'Since the CA firm left within 21 days from the date of sanction, they may not be held responsible for not checking'. Thus, from the above comment, it is noted that an auditor after the expiry of his audit tenure cannot be held responsible in case there is any changes in the circumstances of the business transactions.

6.13 The Committee further observed that the advocate representing the Complainant's Bank had issued a special report on the title. In the said report, the advocate explicitly mentioned that no suspicion was raised regarding the authenticity of the original title deeds. Furthermore, the advocate issued the Certificate stating, 'I find no defects in the title of the person offering the mortgage.' In essence, this certification by the Complainant's Bank's advocate affirms that no defects were identified in the title deeds.

6.14 On an overall consideration of the matter, the Committee was of the view that the inspection manual of the Bank laid down the work responsibilities and domain of the auditor, and that the primary responsibility and decision of loan disbursement was of the Bank incharge; and the concurrent auditor has the responsibility of pointing out any irregularity in carry forward of defaulters to the next financial period

which has been complied with by the Respondent. The Committee observed that auditors conducting regular audit of branches are required to conduct legal compliance of audit which in the present case, was to be undertaken by the successor auditor for the reason that the loan enhancement sanctioned on 10th January 2013 and the tenure of the Respondent firm had ended on 31st January 2013.

6.15 In view of the same, the Committee was of the view that the Complainant bank has not produced any corroborative evidence to substantiate the allegation as contained in the complaint and therefore the Respondent is **not guilty** of professional misconduct falling within the meaning of Clause (7) of First Schedule to the Chartered Accountant Act, 1949.

7. Conclusion:

In the view of the above findings states in the above paras, vis-a vis material on record, the Committee gives its charge-wise findings as under: -

| Charges (as per PFO) | Findings | Decision of the Committee |
|---------------------------------|----------------------------------|---|
| Para 2.1 as given above | Paras 6.1 to 6.15 as given above | NOT Guilty- Clause (7) of Part I of Second Schedule |

8. In view of the above observations, considering the submissions of the Respondent and Complainant, and documents on record, the Committee held the Respondent **NOT GUILTY** of Professional Misconduct falling within the meaning of Clause (7) Part – I of Second Schedule to the Chartered Accountants Act, 1949.

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9. Order

Accordingly, in terms of Rule 19 (2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee passes an Order for closure of this case against the Respondent.

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Sd/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

Sd/-

(SHRI JIWESH NANDAN, I.A.S. {RETD.})
GOVERNMENT NOMINEE

Sd/-

(MS. DAKSHITA DAS, I.R.A.S.{RETD.})
GOVERNMENT NOMINEE

Sd/-

(CA. MANGESH P KINARE)
MEMBER

Sd/-

(CA. COTHA S SRINIVAS)
MEMBER

DATE : 16.01.2024
PLACE: New Delhi

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

नीलम पुंडीर / Neelam Pundir
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
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