

CONFIDENTIAL

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

[Constituted under Section 21B of the Chartered Accountants 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: PPR/P/398/2017-DD/170/INF/2018-DC/1447/2021

IN THE MATTER OF:

CA. SURINDER SINGH (M. No. 504568)

C/O S. Hardev Singh, 6/125, Phase-1,
H. No. 850, Phase – 5, Sarabha Nagar Ext., Vpo Daad,
Bhatinda (Punjab) – 151001 Opposite Blessing Resorts,
Pakhawal Road,
Ludhiana (Punjab) – 142022

MEMBERS PRESENT:

CA. Ranjeet Kumar Agarwal, Presiding Officer (In person)
Shri Jiwesh Nandan, I.A.S. (Retd.), Government Nominee (In person)
Ms. Dakshita Das, I.R.A.S. (Retd.), Government Nominee (In person)
CA. Mangesh P Kinare, Member (Through VC)

DATE OF FINAL HEARING : 26th December 2023

DATE OF DECISION TAKEN : 09th January 2024

PARTIES PRESENT:

Respondent : CA. Surinder Singh (Through VC)
Counsel for Respondent : CA. Lakshay Gupta (Through VC)

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1. **Background of the Case:**

Investigation conducted by the CBI had revealed that the Respondent was one of the partners in M/s Rakesh Krishna & Associates, Ludhiana (i.e., Respondent firm) who were appointed as the concurrent auditors of Bank of Baroda, Branch Office, G.T. Road, Phagwara from 01st April 2012 to 31st March 2013. Investigation revealed that the Respondent remained unable to report to the Head of Branch as well as other senior authorities of Bank of Baroda for grave irregularities occurred during their period of concurrent audit of the branch. It was stated by the Informant that as per the Minimum Audit Programme prescribed by Reserve Bank of India and as per the instructions laid down by the Bank for checking / verification during Concurrent Audit, the concurrent auditors had to verify / check the various documents / books. The Respondent has taken the plea that he had signed the concurrent audit reports of the Bank for the period 1st April 2012 to 31st March 2013 but the overall in-charge of the said concurrent audit was another partner of the Respondent firm namely CA. Rakesh Kumar.

2. **Charges in Brief:**

2.1 It has been alleged that the Concurrent Auditors of the Bank Branch failed to point out following irregularities in their reports for the months of April 2012, May 2012, and June 2012:

i. **Adhering to Discretionary lending Powers:**

At the time of sanctioning various credit facilities, Branch Manager had to adhere to the Discretionary powers vested in him as per H.O. Circular in respect of Discretionary Lending Powers. During the months of April, May & June 2012, Sh. Kuldeep Singh, Senior Branch Manager sanctioned the credit facilities of following credits:

P.K. Enterprises	ODBTL	Rs. 90.00 Lacs
V.S. Traders	ODBTL	Rs. 90.00 Lacs
B.K. Enterprises	ODBTL	Rs. 90.00 Lacs
B.S. Publishers	ODBTL	Rs. 90.00 Lacs
M.K. Traders	ODBTL	Rs. 90.00 Lacs

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Shri Kuldeep Singh, the then Senior Branch Manager sanctioned the above credit Facilities without having Powers during the tenure of Concurrent Audit and Concurrent Auditors failed to report the same in their reports for the months of April, May & June 2012. The same was also required to be reported to Regional Office and CMD of the bank by way of special letter and the same was also not pointed out.

ii. Compliance of Terms & Conditions of Sanction:

The Concurrent Auditor had not pointed out in his reports that whether all the terms & conditions of sanction had been complied with or not.

iii. Post Disbursement Supervision/Follow Up:

The Concurrent Auditors failed to point out the irregularities pertaining to post disbursement follow-ups done by the Branch officials e.g. Periodical receipt of Stock / Book debt Statements, QIS data, Analysis of monthly stock / book debt statements, end-use of monthly Stock/Book Debt Statements, End use of funds, periodical visits to the unit.

iv. Physical verification of Units:

As per terms and conditions of appointment of Concurrent Auditors, the Concurrent Auditors as well as branch officials had to conduct physical verification of stocks at the unit. The Concurrent Auditors failed to point out any irregularity noticed by them during personal visit to the Borrower's units.

v. Diversion of Funds:

There was huge diversion of funds from and to the sister / Associate concerns, but the Concurrent Auditor had not pointed out the same in his reports.

vi. Analysis of Financial Documents submitted for sanction:

The Concurrent Auditor had not commented on any document found fake / false in loans sanctioned during his tenure. Many of the documents like VAT returns / Financial Statements / ITRs were found fake, but Concurrent Auditor had not raised any doubt or commented on any irregularity in his reports.

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vii. Marking of Drawing Power in Computer:

The Concurrent Auditor failed to point out that Drawing power was updated every month in the computer system to mark correct D.P. and regulate the drawings.

viii. Reporting of Financial indiscipline:

The concurrent Auditor was under an obligation to point out all the indiscipline in operation of account. But he had failed to point out any irregularity while a number of instances of financial indiscipline had been observed in all loans sanctioned during the tenure of the Concurrent Auditor as well as sanctioned prior to his tenure.

3. The relevant issues discussed in the Prima facie opinion dated 24th July 2020 formulated by Director (Discipline) in the matter in brief is given below:

3.1 It was observed that serious allegations were levelled against the Respondent but failed to submit any submissions in his defence and merely stated that he had only signed the concurrent audit report. The overall in charge of audit was the other partner and that partner was responsible for any irregularity / deficiency in audit.

3.2 The Respondent as signing partner of the firm failed to submit any defence against the allegations but from his statement in his letter dated 18th August 2018, it appears that he blindly relied upon the work of his partner and signed the audit report without verification and application of his mind. An information case was initiated against the Respondent in his individual name and other disciplinary case on similar ground was also initiated against another partner CA. Rakesh Kumar as well. It was not clear as to why CA. Rakesh Kumar, in spite of the fact that a separate disciplinary case had been initiated against him, had taken responsibility in respect of this matter also by signing the letter dated 18th August 2018 and letter dated 2nd April 2019.

3.3 The Respondent was the engagement partner of the concurrent audit. In this regard, from the definition of 'engagement partner' given in Standard



on Quality Control (SQC) -1, I was clear that the Respondent who signed the audit report on behalf of the firm was responsible for the report issued on behalf of the firm and could not escape from his responsibility of signing and issuing the audit report on behalf of the Respondent firm.

3.4 It was observed that the informant had only pointed out deficiencies in audit but did not provide corroborative evidence. But the Respondent also did not provide any documentary evidence in his defence, and rather tried to shift the burden to another partner of his firm. Hence, keeping in view the nature of allegations levelled against the Respondent and his role and in absence of any written statement in the instant matter, it was viewed that benefit could not be extended to the Respondent at the prima facie stage.

3.5 The Director (Discipline) in his Prima Facie Opinion dated 24th July 2020 has opined that the Respondent was GUILTY of Professional Misconduct falling within the meaning of Items (5), (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said Items of the Schedule to the Act, state as under:

Item (5) of Part I of The Second Schedule:

"A Chartered Accountant in practice shall be deemed to be guilty of Professional Misconduct if he:

(5) fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary in making such financial statement where he is concerned with that financial statement in a professional capacity"

Item (6) of Part I of The Second Schedule:

"A Chartered Accountant in practice shall be deemed to be guilty of Professional Misconduct if he:

(6) fails to report a material misstatement known to him to appear in a financial statement with which he is concerned in a professional capacity."

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Item (7) of Part I of The 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."

Item (8) of Part I of The Second Schedule:

"A Chartered Accountant in practice shall be deemed to be guilty of Professional Misconduct if he:

(8) fails to obtain sufficient information which is necessary for expression of an opinion, or its exceptions are sufficiently material to negate the expression of an opinion."

- 3.6 The Prima Facie Opinion dated 24th July 2020 formed by Director (Discipline) was considered by the Disciplinary Committee at its meeting held on 7th April 2021. The Committee on consideration of the same, concurred with the reasons given for the charges and thus, agreed with the prima facie opinion of the Director (Discipline) that the Respondent is prima facie GUILTY of Professional Misconduct falling within the meaning of Items (5), (6), (7) and (8) of Part – I of the Second Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007. The Committee also directed the Directorate that in terms of the provisions of sub-rule (2) of Rule 18, the prima facie opinion formed by the Director (Discipline) be sent to the Respondent including particulars or documents relied upon by the Director (Discipline), if any, during the course of formation of Prima Facie Opinion and the Respondent be asked to submit his written statement in terms of the provisions of the aforesaid Rules.

4. Date(s) of written submission / pleading by parties:

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

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S. No.	Particulars	Dated
1	Date of 'Information letter'	10 th July 2018
2	Date of Written Submissions filed by the Respondent.	18 th August 2018
3	Prima Facie Opinion by the Director (Discipline).	24 th July 2020
4	Further Written Submissions filed by the Respondent.	2 nd August 2021, 11 th October 2023, and 19 th December 2023

5. Further written submissions filed by the Respondent:

The Respondent vide letters 2nd August 2021, 11th October 2023, and 19th December 2023 made further submissions, which are summarized as under:

5.1 Further submissions of the Respondent made vide letter dated 2nd August 2021:

The overall responsibility of conducting the alleged audit/assignment was with another partner of the firm namely CA. Rakesh Kumar and he was accountable for the same. Audit was carried out under his supervision. The Respondent, as per the trade practice, had signed the reports only prepared by CA. Rakesh Kumar in good faith. The Respondent was a signing partner only. CA. Rakesh Kumar had expired on 01st April 2021. Though he was no more with us, but a declaration dated 10th December 2018 duly signed by him taking full responsibility for answering the allegations and particulars of acts of omission and commission, was still intact / subsist.

5.2 Further written submissions of the Respondent made vide letter dated 11th October 2023:

- i. That on perusal of Standard on Quality Control - 1, it was clearly evident that nowhere it had been prescribed that the signing member of the firm will be recognised as the Engagement Partner and will be held solely responsible for the report issued by him. Standard on Quality Control - 1 enumerates various aspects of an audit assignment as a whole and how

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quality standard could be maintained by the firms whereas nowhere it has been intended by the legislature to create a deeming fiction that the signing partner shall be considered as engagement partner and shall be held responsible for report issued under his signature disregarding the fact that actually, which partner of the firm was looking after said assignment and was actually responsible for conducting said assignment and ensuring quality of performance of said assignment

- ii. Upon receiving appointment letter dated 07.04.2012 regarding impugned concurrent audit assignment on 12.04.2012, the acceptance was issued, and audit process was initiated on 16.04.2012 but there was persisted delays on the part of bank officials in providing official User ID to the Respondent firm. Undisputedly, the audit team was provided User ID on 03.05.2012 and evidently, the audit team was not having access to the system of the bank for April 2012 but still after rigorous investigation of physical records, as being access to the records maintained digitally were not available due to non-allotment of User ID, the audit team duly conducted required audit procedures and reported various irregularities in the Concurrent Audit report issued for the period 2012.
- iii. Bank management detected the fraud after completion of audit tenure of the Respondent firm and said accounts were classified as Non-Performing Assets on or after 30.09.2013 i.e. after the conclusion of concurrent Audit Assignment allotted to the Respondent firm vide aforesaid appointment letter dated 07.04.2012.
- iv. The senior manager of the branch was authorized to sanction loans for a maximum of Rs. 1 crore individually and Rs. 2 crores for group exposure and upon verification of records, it was found that the sanctioned amount to five marked entities were within said discretionary lending power being the amount of sanctioned limit was Rs. 90 lakhs in each entity on different dates and nowhere the branch management had allotted Group ID to said accounts.
- v. No specific irregularity regarding terms of sanction of overdraft facilities in consonance with master circular BCC/BR/99/268 dated 05.09.2007 of

OBTDL scheme, were noticed by the audit team. In respect of terms of sanction regarding stock statements to be obtained from the party, stock statements were to be obtained once a year i.e., as of last day of February by 10th of March of every year and no such compliance requirement arose during the said period.

- vi. The Branch officials had visited the units at the time of credit approval and sanctioning and the reports of physical visits were duly available with bank and the same were verified by the audit team.
- vii. In respect of allegation of non-reporting of irregularities regarding physical verifications of units, no such specific irregularity had been reported being no such requirement was applicable to impugned credit facilities in accordance with master circular BCC/BR/99/268 dated 05.09.2007 of OBTDL scheme, as these credit facilities were sanctioned against properties and not in the nature of working capital related credit facilities.
- viii. No specific irregularity had been reported being no instance of diversion of funds were noticed by the audit team, which required any special reporting whereas, in no school of thought, a Concurrent Auditor is expected to comment upon each, and every transaction of every credit facility being sanctioned and maintained at the branch.
- ix. No specific irregularity had been reported regarding analysis of financial documents submitted for sanction, while physically verifying the documents including the Valuation report, Legal Opinions, title deeds in respect of properties offered as collateral against said credit facilities and ITRs.
- x. In accordance with Master Circular BCC/BR/99/268 dated 26.09.2007, the objective of OBTDL was to provide hassle free and security linked advance, where neither the drawing power was determined by value of stock nor traders were required to submit various financial statements and monthly stock statements.

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- xi. The Informant had merely made a passing remark in their letter dated 25.09.2017 regarding impugned issue but had not specifically indicated any instance where they had identified any Financial Indiscipline which was omitted to be reported in Concurrent Audit Report issued by the Respondent for the period April 2012 to June 2012.

5.3 Further written submissions of the Respondent made vide letter dated 19th December 2023:

- i. Information letter dated 25.09.2017, alleging that the Respondent along with other partners of the auditor firm failed to point out certain irregularities in the concurrent audit report issued for the months of April 2012 to June 2012.
- ii. Submissions regarding "Engagement Partner" had already been filed with written submissions dated 11.10.23.
- iii. CA Rakesh Kumar had at the relevant point of time accepted the fact that he was responsible for overall conduct of the audit assignment.
- iv. The Respondent was not engaged in actual performance of audit assignment but was engaged at the time of finalization only.
- v. CA. Rakesh Kumar was involved in performance of said assignment and a separate case had been initiated against him.

6. Brief Facts of the Proceedings:

- 6.1** 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	20 th September 2022	Adjourned due to paucity of time.
2 nd Time	26 th December 2022	Adjourned at the request of the Respondent.
3 rd Time	7 th January 2023	Adjourned at the request of the Respondent.
4 th Time	16 th October 2023	Part heard and adjourned.
5 th Time	28 th November 2023	Adjourned due to paucity of time.
6 th Time	14 th December 2023	Part heard and adjourned.
7 th Time	26 th December 2023	Hearing concluded and Judgment Reserved.
8 th Time	09 th January 2024	Judgment delivered.

- 6.2** On the day of first hearing on 20th September 2022, the case was adjourned due to paucity of time.
- 6.3** On the day of second hearing on 26th December 2022, the Committee noted that the Respondent vide e-mail dated 21st December 2022 sought adjournment on the grounds of family function. The Committee acceded to the adjournment request of the Respondent and adjourned the matter to a later date.
- 6.4** On the next day of hearing on 7th January 2023, the Committee noted that the Respondent vide e-mail dated 5th January 2023, submitted that he had received a complete set of PFO (Prima Facie Opinion) on 23rd December 2022 and thus, sought adjournment to file his written submissions. The Committee adjourned the matter at the request of the Respondent.
- 6.5** On the day of fourth hearing on 16th October 2023, the Committee noted that the Respondent was present through video-conferencing mode. Thereafter, the Respondent was put on oath and the Committee enquired from the Respondent as to whether he was aware of the charges which were also read out to him as contained in Para 2 above. The Respondent replied that he is aware about the charges but pleaded Not Guilty on the charges levelled against him. Thereafter, as per Rule 18(9) of the Chartered Accountants (Procedure of Investigation of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee adjourned the case to a later date and accordingly, the matter was part heard and adjourned.
- 6.6** On the next day of hearing on 28th November 2023, the case was adjourned due to paucity of time.
- 6.7** On the day of sixth hearing on 14th December 2023, the Committee noted that the Respondent along-with Counsel were present through Video conferencing mode. The Committee asked the Counsel for the Respondent to make submissions in the matter. The Counsel for the Respondent submitted that Informant had submitted this information case

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against two partners of the Respondent firm. The allegations were the same and other partner CA. Rakesh Kumar had declared himself member answerable in this case as he was the audit in-charge. The Respondent had signed the concurrent audit reports on behalf of CA. Rakesh Kumar. The Counsel for the Respondent further submitted that CA. Rakesh Kumar had been held prima facie not guilty by the Director (Discipline) and the said opinion had been accepted by the Board of Discipline and information case on same set of allegations had been closed. The Committee then asked the Respondent's Counsel about the concurrent audit report signed by the Respondent. The Respondent's Counsel informed the Committee that the concurrent audit reports signed by the Respondent were not available with him. The Committee directed the Counsel for the Respondent to submit the copy of the concurrent audit reports signed by the Respondent within next 10 days. Thereafter, the Committee adjourned the case to a later date and accordingly, the matter was part heard and adjourned.

6.8 On the day of seventh hearing on 26th December 2023, the Committee noted that the Respondent along-with Counsel were present through Video conferencing mode. The Committee asked the Counsel for Respondent to present his views on the merits of the case. The Counsel submitted that the Respondent was appointed as the concurrent auditor for the F.Y. 2012-13 vide appointment letter dated 7th April 2012 and at that point of time, it was the first concurrent audit being conducted at that Branch of Bank of Baroda. So, there was no independent concurrent audit available on record prior to that assignment.

6.9 The Respondent did not have any access to the Finacle or the software which was there in the Branch. He had physically verified all documents and had reported various irregularities online on the said software in the Bank Branch itself and hard copy of concurrent audit was not available with him, and the same had been summarized in his submissions. The Respondent's Counsel submitted that the discretionary lending power of the Branch Manager was Rs. 1 crore in an individual case whereas as a group exposure, the limit was 2 crores. But the Branch Manager had not

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assigned any Group id to any of accounts. The Concurrent Auditor had reported in his concurrent audit report for the month of June 2012 that the proposal sanction letters which were required to be prepared by the Branch Manager were not at its place.

- 6.10** The Counsel submitted that the concurrent auditor had also reported that various irregularities were identified in respect of projects sanctioned reports, stock statements, authority for pre-disbursements and pending for vetting of loan sanction letters. These all were duly reported in the concurrent audit report issued for the month of June 2012. However, in a holistic view, these findings were not sufficient to consider each of these loans as a fraud within few months of its disbursal because these loans were sanctioned in phases viz., for M/s P. K. Enterprise, it was sanctioned in April 2012, M/s B. S. Traders, it was sanctioned in May 2012 whereas remaining three accounts were sanctioned only in June 2012. So, within a span of one or two months, it could not be considered that these accounts were fraud.
- 6.11** The Counsel submitted that it was only after 30th September 2013 that these accounts or any of these accounts were found to be a fraud or NPA whereas the Respondent firm's tenure completed by 31st March 2013 and no adverse finding was there from the bank. On the second issue, the basic condition was regarding stock statements. These loans were sanctioned against properties. There was no requirement to obtain stock statements. Further, in the concurrent audit report, the revenue leakage was reported. In the audit reports, it was reported that the Branch Manager had not obtained pre-disbursement authority. Further, in respect of certain accounts, it was reported that the accounts were not properly maintained, not properly operated, and had lower turnover. All these irregularities were reported in the concurrent audit reports issued for the month of June 2012. The Counsel for the Respondent then submitted that the issues presented in the case of the Respondent and CA. Rakesh Kumar were same, Further, the documents were also same. Both partners had applied their mind and conducted this audit; and that CA. Rakesh Kumar was the senior partner having more experience and because of which, he had



taken the responsibility and ownership of the said audit. Based on the documents and information available on record and after considering the oral and written submissions made by the Counsel for the Respondent, the Committee concluded hearing in the matter and reserved the judgement. Thus, the case was concluded, and judgement was reserved.

6.12 Thereafter, in the meeting held on 09th January 2024, the Committee noted that the matter was concluded on 26th December 2023, and the Judgment was reserved. The Committee based on the facts, documents, and information on record and after considering oral and written submissions made by the Respondent at the time of hearing, passed its judgment.

7. Findings of the committee:

7.1 The Committee deliberated on the charges levelled against the Respondent that he, being the Concurrent Auditor of the Bank Branch, allegedly failed to point out certain irregularities in his audit reports for the months of April 2012, May 2012, and June 2012. The Committee perused the monthly audit reports pertaining to the period from April 2012 to March 2013 and noted that these audit reports had been signed by the Respondent mentioning his membership number on the same. The Committee observed that the preliminary and one of the main arguments raised by the Respondent was that he had only signed the audit reports, but the overall in-charge of the audit was the-then another partner of the Respondent Firm namely, CA. Rakesh Kumar. In this context, the Committee noted that Para 6(b) of Standard on Quality Control (SQC) 1 – ‘Quality Control for Firms that Perform Audits and Reviews of Historical Financial Information, and Other Assurance and Related Services Engagements’ (effective for all engagements relating to accounting periods beginning on or after April 1, 2009) defines the term ‘engagement partner’ as under:

Engagement partner – the partner or other person in the firm who is member of the Institute of Chartered Accountants of India and is in full time practice and is responsible for the engagement and its performance, and for the report that is

issued on behalf of the firm, and who, where required, has the appropriate authority from a professional, legal, or regulatory body.

- 7.2 The Committee observed that an engagement partner plays a critical role in overseeing and ensuring the effective execution of engagements. Additionally, the engagement partner bears the responsibility for issuing reports on behalf of the firm. The Committee further observed that Paragraph 45 of SA 700 (Revised) – ‘Forming an Opinion and Reporting on Financial Statements’ requires the engagement partner to sign the auditor’s report, which is as under:

“Signature of the Auditor

45. The auditor’s report shall be signed. The report is signed by the auditor (i.e. the engagement partner) in his personal name. Where the firm is appointed as the auditor, the report is signed in the personal name of the auditor and in the name of the audit firm. The partner/proprietor signing the audit report also needs to mention the membership number assigned by the Institute of Chartered Accountants of India. They also include the registration number of the firm, wherever applicable, as allotted by ICAI, in the audit reports signed by them. (Ref: Para. A56-A57)

Signature of the Auditor (Ref: Para 45)

A56. SQC 1 requires that the firm establish policies and procedures to provide reasonable assurance that engagements are performed in accordance with professional standards and applicable legal and regulatory requirements. Notwithstanding these SQC 1 requirements, naming the engagement partner in the auditor’s report is intended to provide further transparency to the users of the auditor’s report of a complete set of general-purpose financial statements of an entity.”

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- 7.3 On combined reading of above paras of SQC-1 and SA-700, the Committee observed that the auditor's report is required to be signed by the engagement partner who is required to mention his / her membership number assigned by the Institute of Chartered Accountants of India (ICAI), and, where applicable, the registration number of the firm as allotted by ICAI be also mentioned on the audit reports in order to enhance transparency. The Committee observed that Standard on Quality Control 1 (SQC 1) also states that naming the engagement partner in the auditor's report serves the additional purpose of providing transparency to users of the financial statements. Consequently, the Committee noted the crucial nature of the engagement partner's role in safeguarding the integrity, accuracy, and compliance of financial information and reports produced by the firm. In assessing the case, the Committee pointed out that as the Respondent had signed the concurrent audit reports of the Bank branch, he was accountable for the audit work. The Committee concluded that the Respondent could not evade responsibility for the audit work in question; and therefore, the instant assertions of the Respondent were observed to be not tenable in this case and the preliminary objection was thus rejected.
- 7.4 The Committee thoroughly examined the specific allegations raised against the Respondent and deliberated on the merits of the case. As regards the first charge pertaining to non-adherence of discretionary lending powers by the senior branch manager of the bank and failure of the Respondent to report the same in his audit reports, the Committee considered the Respondent's submissions that the discretionary lending powers granted to Senior manager for aggregating per party limit was Rs 100.00 lacs and aggregate group limit was Rs 200.00 Lacs. The Respondent also submitted that all the alleged loans to the five separate alleged borrowers namely M/s P. K. Enterprises, M/s V. S. Traders, M/s B. K. Enterprises, M/s B. S. Publishers, and M/s M. K. Traders were sanctioned individually as separate entity and not as group at different dates with their separate customer id's. The Committee also considered the Bank of Baroda's circular dated 06th September 2007 stating about the increase in the maximum limit of advances under the product from Rs. 100 lacs to Rs. 200 lacs. The relevant extract of the circular is given below:

"Re: Retail Loan: Product Modification: Baroda Traders' Loan

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During Quarterly Review Meeting held at BCC, Mumbai, most of the Regions and Zones have opined that financial norms relating to Current Ratio and Debt-Equity Ratio act as a deterrent in takeover of good accounts from other banks and are facing stiff competition from peer Banks. Therefore, they expressed the need of increasing the maximum limit of finance under the scheme and relax take over norms.

In view of the aforesaid background, it has been decided to modify the features / norms applicable for advances under the product:

A. To enhance the maximum limit permissible under the product from Rs. 100/- lacs to Rs. 200/- lacs.

B. To relax the takeover norms relating to Current Ratio (from 1.33 to 1.17) and Debt- Equity Ratio (from 3:1 to 6:1)."

In the present case, the Committee also noted that no information regarding the creation of group ID by the concerned bank branch against these five separate borrowers had been given by the Informant in his investigation report. The Committee also examined the audit reports issued by the Respondent and observed that in the audit report for the period of June 2012, the Respondent had reported that no authority for pre-disbursement had been obtained by the branch and vetting was also pending for the loan sanctioned from 01.04.2012 to 30.06.2012. It was also reported that the branch manager had not submitted the proposal sanction report to higher authority in the month of June 2012.

- 7.5. Thus, the Committee observed that the Respondent had clearly pointed out the discrepancies observed with respect to new sanctions for the period from April 2012 to June 2012 in his audit reports. The Committee also noted that there was no information on any group ID created by the branch or otherwise in respect of the five borrowers. As regards requirement of reporting to Regional Office and CMD of the Bank, the Committee examined the extract of the audit manual submitted by the Respondent. The said extract states that any matter, suspected to be a fraud or fraudulent activity or any foul play in any transaction be specifically

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reported simultaneously to the Chairman & Managing Director of the Bank and the Regional Office of the RBI, Department of Banking Supervision. In cases where the amount of fraud involved is Rs. 100 lacs or above, such instances be directly reported to the Central Office of RBI, Department of Supervision, Mumbai.

- 7.6. From the Respondent's submissions along with material available, the Committee observed that there was no information of any fraud or fraudulent activity, or any foul play of transaction occurred in the Bank branch, which had been suspected by the Respondent but not reported by him. The Committee also observed that the alleged loans of Rs. 90 lakhs disbursed to five entities were within the discretionary lending powers or approving limits of the branch manager. Consequently, the Committee observed that the instant charge was not tenable against the Respondent. Thus, the Committee held the Respondent **Not Guilty** for this charge.
- 7.7. As regards second charge pertaining to the failure of the Respondent to report whether all terms and conditions of the sanction had been complied with or not, the Committee considered the Respondent's submission that no specific irregularity had been reported as no such specific irregularity regarding terms of sanction of said overdraft facilities in consonance with Master Circular BCC/BR/99/268 dated 05.09.2007 of ODBTL scheme, were noticed by the audit team.
- 7.8. The Committee also observed that the Informant had not specified which specific terms and conditions of sanction pertaining to which specific borrowings, were not complied with by the bank branch which were required to be reported by the Respondent. The Committee observed that the allegation was generic and vague in nature; and further, there was lack of clarity as well as non-production of substantial evidence to prove any misconduct on the part of the Respondent in the present charge. Consequently, the Committee held the Respondent **Not Guilty** for this charge.
- 7.9. As regards third charge pertaining to concurrent auditor's failure to point out the irregularities pertaining to post disbursement follow-ups done by

the branch officials, the Committee considered the Respondent's submission that no such specific irregularity had been reported being follow-up measures including ensuring receipt of periodical stock statement, QIS Data, Analysis of Monthly Stock and Book Debt Statements. Further, periodical visits to the units were not applicable for Concurrent Audit Reports issued for the periods April 2012 to June 2012. The Respondent asserted that the Branch Officials had visited the units at the time of credit approval and sanctioning, and the reports of physical visits were duly available with bank and the same were verified by the audit team. The Committee after thorough examination of the available information along with Respondent's submissions and after detailed deliberations, observed the absence of any specific detail coupled with substantiative evidence in case of present charge to prove any misconduct on the part of the Respondent. The Committee observed that there was a general statement that the Respondent had failed to point out irregularities pertaining to post disbursement followed by Branch officials, but no specific information of alleged irregularities had been provided. Consequently, the Committee observed that the instant charge was not tenable against the Respondent and thus, the Committee held the Respondent **Not Guilty** for this charge.

- 7.10. As regards fourth charge pertaining to failure of the concurrent auditors to report any irregularity during physical verification of the units, the Committee considered the Respondent's submissions that no such specific irregularity had been reported since no such requirement was applicable to impugned credit facilities in accordance with Master Circular BCC/BR/99/268 dated 05.09.2007 of ODBTL scheme, as these credit facilities were sanctioned against properties and were not in the nature of working capital related credit facilities. The Respondent also stated that the Branch Officials had visited the units at the time of credit approval and sanctioning and the reports of physical visits were duly available with bank and the same were verified by the audit team. The Committee thoroughly examined the Respondent's submissions and once again observed that no details coupled with substantiative evidence has been provided by the Informant in the present charge. The Committee observed that the

Informant had simply stated that no irregularity was noticed by the concurrent auditor as well as branch officials who were required to conduct physical verification of stock at the borrower's unit. But the informant failed to provide any clarity on the irregularity, if any, found during the relevant period regarding the physical verification done by the Respondent which was required to be reported in his audit reports for the relevant period. Thus, the Committee observed that the instant charge was not tenable against the Respondent and accordingly, the Committee held the Respondent **Not Guilty** for this charge.

7.11. As regards fifth charge pertaining to diversion of funds, the Committee considered the Respondent's submissions that no instance of diversion of funds was noticed by his audit team and thus, no such specific irregularity had been reported in the relevant audit reports. The Committee noted that the bank statements of five borrowers namely M/s P. K. Enterprises, M/s V. S. Traders, M/s B. K. Enterprises, M/s B. S. Publishers, and M/s M. K. Traders have been submitted by the Respondent. The Respondent also provided the summarized transaction details of these five borrowers wherein certain amount was transferred but the same was not suspected to be the diversion of funds. It was also stated that giving comment on each and every transaction of advance sanctioned prior to the audit and during the tenure of audit, was not possible.

7.12. The Committee examined the audit reports of the Respondent and observed that in the audit report for the period of June 2012, reporting has been done in respect of borrower namely 'Ashoka Traders' wherein it is reported that 'on 19.06.12, Rs 21.33 Lacs were credited by transfer from 10393 and on the same date, Rs 20.49 lacs were transferred to 04/10470 of M/s PK Enterprises in single transaction in June 12'. The Committee considered the Respondent's submissions and reporting done by him in audit report for the month of June 2012 and also observed that no specific details of any diversion of funds, had been provided by the Respondent, which were required to be reported by the Respondent in his audit reports for the relevant period. Thus, the Committee observed that the instant allegation levelled against the Respondent was not established in the

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absence of sufficient details and accordingly, the Committee held the Respondent **Not Guilty** for this charge.

- 7.13. As regards sixth charge pertaining to Respondent's failure on providing his comments on the fake/false documents attached for sanctioning of loan, the Committee considered the Respondent's submissions that while physically verifying the documents including Valuation Report, Legal Opinions, Title Deeds in respect of properties offered as collateral against said credit facilities and ITRs, Audited Financial Statements and Tax Audit Reports of said parties availing credit facilities, no instance indicating any defect in such documents were observed and the same were appearing to be genuine and under proper custody of branch officials and the same were accompanied with reports of empanelled independent professionals including Chartered Accountants. Thus, no such specific irregularity had been reported in the audit reports.
- 7.14. The Committee while deliberating on the present charge, observed that the Respondent, in normal course of audit, cannot be expected to detect whether documents like VAT returns, Financial Statements, Income tax Returns are fake or not. The Committee observed that the Auditor cannot doubt the genuineness of the financial documents until and unless there are reasonable grounds for suspicion.
- 7.15. In the present case, the Committee observed that during the investigation carried out by the Complainant department, it was stated that many documents viz., VAT returns, financial statements and ITRs were found fake by them. In this specific context, the Committee observed that sufficient information regarding the name of the borrowers whose documents were found to be fake or the specific documents of those specific borrowers which were found to be fake, was missing. Further, there was no sufficient information coupled with substantiative evidence to prove that there were reasonable grounds for the auditor to doubt the genuineness of the documents filed in respect of the sanction of loans by the borrowers during the conduct of his concurrent audit. Consequently, the Committee observed that the instant charge was not tenable against

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the Respondent and thus, the Committee held the Respondent **Not Guilty** for this charge.

- 7.16. As regards seventh charge pertaining to Respondent's failure on pointing out that the drawing power was updated every month in the computer system, the Committee considered the Respondent's submissions that in accordance with Master Circular BCC/BR/99/268 dated 26.09.2007, the objective of the ODBTL was to provide hassle free and security linked advance, where neither the drawing power was determined by value of stock nor traders were required to submit various financial statements and monthly stock statements. Thereby, the Respondent was nowhere under any mandate to comment upon the drawing power appearing in this regard on system of the bank.
- 7.17. The Committee considered the Respondent's submissions and observed that no specific details coupled with any corroborative evidence/document were provided by the Informant to prove this charge against the Respondent. The Committee observed that the Informant failed to provide the basic details as to the month, in which the drawing power was not updated, the details of entities in respect of which the said updation did not take place. Consequently, the Committee observed that the instant charge was not tenable against the Respondent in the absence of sufficient details and substantive evidence. Thus, the Committee held the Respondent **Not Guilty** for this charge.
- 7.18. As regards eighth charge pertaining to Respondent's failure on reporting of financial indiscipline, the Committee considered the Respondent's submissions that the informant had merely made a passing remarks regarding impugned issue but had not specifically indicated any instance where they had identified any financial Indiscipline which was omitted to be reported in Concurrent Audit Report issued by the Respondent. The Committee also observed that no specific details had been provided by the Informant in the absence of which, it was not possible to deal the present issue on merit. Consequently, the Committee observed that the instant charge was not tenable against the Respondent in the absence of

sufficient details. Thus, the Committee held the Respondent **Not Guilty** for this charge.

- 7.19.** Thus, on consideration of overall facts, submissions, and documentary evidence(s)/material on record and after thoroughly considering the charges against the Respondent, the Committee held the Respondent **NOT GUILTY** of Professional Misconduct falling within the meaning of Items (5), (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

8. Conclusion

In view of the findings stated in above paragraphs vis-à-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(i) as above	Para 7.4 as above	Not Guilty - Item (5), (6), (7) and (8) of Part I of the Second Schedule
Para 2.1(ii) as above	Para 7.5 as above	Not Guilty - Item (5), (6), (7) and (8) of Part I of the Second Schedule
Para 2.1(iii) as above	Para 7.6 as above	Not Guilty - Item (5), (6), (7) and (8) of Part I of the Second Schedule
Para 2.1(iv) as above	Para 7.7 as above	Not Guilty - Item (5), (6), (7) and (8) of Part I of the Second Schedule
Para 2.1(v) as above	Para 7.8 as above	Not Guilty - Item (5), (6), (7) and (8) of Part I of the Second Schedule
Para 2.1(vi) as above	Para 7.9 as above	Not Guilty - Item (5), (6), (7) and (8) of Part I of the Second Schedule
Para 2.1(vii) as above	Para 7.10 as above	Not Guilty - Item (5), (6), (7) and (8) of Part I of the Second Schedule
Para 2.1(viii) as above	Para 7.11 as above	Not Guilty - Item (5), (6), (7) and (8) of Part I of the Second Schedule

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9. In view of the above observations, considering the oral and written submissions of the Respondent and documents on record, the Committee held the Respondent **NOT GUILTY** of Professional Misconduct falling within the meaning of Items (5), (6), (7) and (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

10. **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.

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

DATE: 05/02/2024
PLACE: New Delhi

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


निशा शर्मा / Nisha Sharma
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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