

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (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: PR/G/387/17/DD/170/2018/DC/1388/2020

In the matter of:

Shri B.S Shukla, Jt. Commissioner,
Office of the Registrar of Co-Operative Societies,
Commissioner Cooperation & Registrar Cooperative Services,
M.P Vindhyachal Bhawan, Area Hills,
Bhopal (M. P) 462 003

....Complainant

VERSUS

CA. Ramdas Rajpal (M. No 425081)
Partner, M/s, S Saraf & Associates (FRN NO 012082C)
Chartered Accountants,
First Floor, Angoori Building Complex,
University Road
Rewa 486 001

.....Respondent

MEMBERS PRESENT

CA. Ranjeet Kumar Agrawal, Presiding Officer (Present in person)

Smt. Rani Nair, Govt Nominee (Present in Person)

Shri Arun Kumar, Govt. Nominee (Present in Person)

CA. Sridhar Muppala, Member (Present in Person)

DATE OF FINAL HEARING: 31-10-2023

DATE OF JUDGEMENT : 23-01-2024

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PARTIES PRESENT:

Complainant: Not Present

Respondent: CA. Ramdas Rajpal (Through video conferencing Mode)

Respondent Counsel: CA. Sharad Vaze (Through video conferencing Mode)

BACKGROUND OF THE CASE

1. The brief background of the case is as under:
 - a. That the Respondent/ Respondent Firm was appointed as Concurrent Auditor by District Central Co-operative Bank, Rewa, MP (hereinafter referred to as the "DCC Bank") to conduct audit of Dabhaura Branch vide Order no. 2865 dated 12th February 2015 for the year 2014-15.
 - b. A Special Audit of Dabhaura Branch of DCC Bank, Rewa was conducted for the year 2013-14 and 2014-15 wherein it was found that an amount of Rs. 23.00 crores (approx) was misappropriated.
 - c. Based on the Special Audit, the allegation is that the Respondent, being Concurrent Auditor of the Bank for the period 2014-15, has not performed his duties properly and has not reported irregular procedures/ practices adopted by the branch officials which caused huge loss to the Bank.

CHARGES IN BRIEF

2. The Committee noted that the charges against the Respondent as mentioned in the complaint dated 18th December, 2017 is that the Respondent / Respondent firm in its capacity as the concurrent auditor has failed to communicate to the Bank's Management about the unusual behaviors and irregular procedures to prevent fraudulent embezzlement in a timely manner due to which these irregular procedures continued for two long years which in turn caused huge loss to the bank.

B. S. Shukla

3. The Committee noted that the Respondent in his reply at the stage of PFO had, inter-alia, mentioned as under:
- a. That in the Special Audit Report submitted by the Complainant, there is no direct or indirect observation/ comment on the performance of the Respondent Firm while conducting concurrent audit of the said Branch as alleged by the Complainant.
 - b. Further, the Special Auditor has not pointed out any irregularities on the part of Respondent/ Respondent firm.
4. The Director (Discipline) had, in his Prima Facie opinion dated 6th August 2020, noticed that:
- a. Special audit report submitted by the Complainant nowhere mentions the role of the Respondent in alleged misappropriation of funds of branch/ bank and it mentioned the role of branch officials of DCC bank. It stated that the branch had no senior manager/ officials to check the day-to-day workings during the said period of misappropriation of funds and thus, the alleged fraud perpetrated.
 - b. It is also on record that the irregularities in the bank were unearthed by bank officials within 12 days of appointment of the Respondent and the alleged fraud perpetrated for approximately 2 years i.e., May 2013 to February 2015 Hence, any observations / findings of the Respondent as a Concurrent Auditor in respect of the irregularities / matters which were already being pointed out / highlighted by Special audit report were irrelevant for the purpose of taking any corrective steps by the bank or for the purpose of raising any red flag against the officials of the bank who were involved in the said irregularities before his appointment as Concurrent Auditor of the branch.
 - c. Thus, keeping in view the facts emerged as above and other documents on record, the benefit was extended to the Respondent and accordingly he was held prima facie Not Guilty for the allegations levelled in the complaint.

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5. Accordingly, the 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, held the Respondent Prima Facie **Not Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the chartered Accountants Act, 1949. The said item in the Schedule of the Act states as under:

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”

6. The Committee noted that the said matter was placed for consideration of Prima Facie Opinion before Board of Discipline in its 147th meeting held on 10th September, 2020 (thereafter adjourned and held on 15th September, 2020) wherein the Board on consideration of the same observed that the Respondent was appointed as the concurrent auditor of the Dabhaura Branch of District Central Co-operative Bank (DCC) Rewa, Madhya Pradesh for the financial year 2014-15 on 12th February, 2015 and submitted his report on 24th September, 2015. The embezzlement of funds was detected by the Jt. Registrar on 24th February, 2015 i.e., within 12 days of his appointment. The Board was of the view that the purpose of concurrent audit is to have a systematic and timely examination of the financial transactions on a regular basis so as to ensure timely detection of irregularities and lapses. The fact that the Respondent was appointed as a concurrent auditor at the fag end of the financial year and the same was accepted by him without any questioning in this regard in itself shows that the Respondent was not aware of the purpose of his appointment and took the assignment casually and thus, his conduct needs to be examined through further enquiry.

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7. Accordingly, the Board of Discipline **did not agree** with the prima facie opinion of the Director(Discipline) that the Respondent is Not Guilty of Professional Misconduct falling within meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act,1949 and **referred the case 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.

SUBMISSION OF THE RESPONDENT ON THE PRIMA-FACIE OPINION:

8. The Committee noted that the Respondent in his written submissions dated 17th December 2020 apart from re-iterating his earlier submissions had, inter-alia, stated as under:
- a. The Respondent was appointed Concurrent Auditor of 11 branches by DCC on 12.02.2015.
 - b. The DCC bank is issuing appointment of concurrent auditors for the sake of compliance of RBI directives and DCC Bank itself is not serious about the entire process of concurrent audit.
 - c. The if the Board of Discipline while holding him guilty felt that the audit should have not been accepted by him, even in that case some other Chartered Accountant would have accepted it. The Respondent's rejection of assignment would not have been financially feasible.
 - d. The appointment was made in the last week of the financial year by the bank. The Respondent visited Dabhaura branch first time for the purpose of audit in April 2015 and the fraud was detected on 24.02.2015 i.e., well before the commencement of audit by the Respondent.
 - e. The scope of audit is different. The Respondent submitted his report on 24.09.2015 i.e., after period of 7 months. The acceptance of audit is not to be looked into but the conduct of audit subsequent to appointment is important.
 - f. The Respondent was not given the documents, vouchers, fraud report etc by the management of the Bank and he was informed that these papers are in custody of Head Office of the Bank and the same has been reported by him in Audit Report dated 24.09.2015. 

- g. The fraud had taken place before commencement of audit, hence, it is not a case of an obvious fraud getting unnoticed during audit then how there can be negligence on Respondent's part.
- h. The DCC Bank has been migrated to computerized accounting in 2012 however, no audit was conducted to ensure correctness of data transfer. Further, no proper training was given to bank's regular employees and the same has been mentioned by the Respondent in his audit report.

BRIEF FACTS OF THE PROCEEDINGS:

9. The Committee noted that the instant case was fixed for hearing on following dates:

S.No.	Date	Status of Hearing
1.	01.06.2022	Part heard and Adjourned.
2.	23.06.2023	Part- Heard and Adjourned in absence of Complainant
3.	28.07.2023	Adjourned in absence of Complainant and on request of the Respondent
4	23.08.2023	Adjourned at the request of Complainant
4.	18.09.2023	Part heard & Adjourned.
5.	17.10.2023	Deferred due to paucity of time
6.	31.10.2023	Concluded & Judgment Reserved
7.	23.01.2024	Final decision taken on the case.

10. On the day of the first hearing held on 1st June 2022, the Committee noted that the Respondent and his Counsel, CA. Sharad A Vaze were present at ITO Office of ICAI. The Complainant was not present despite due delivery of notice. The Respondent was administered on Oath. Thereafter, the Committee enquired from the Respondent as to whether he was aware of the charges. On the same, the Respondent replied in the affirmative and pleaded Not Guilty to the charges levelled against him. Thereafter, looking into the fact that this was

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the first hearing, the Committee decided to adjourn the hearing to a future date to provide one more opportunity to the Complainant. With this, the hearing in the matter was partly heard & adjourned.

11. On the day of the second hearing held on 23rd June 2023, the Committee noted that the Respondent along with his counsel CA. Sharad Vaze was present through Video conferencing Mode. The Committee further noted that neither the Complainant was present, nor any intimation was received despite notice/email duly served upon him.
- 11.1 At the outset, the Committee enquired from the Respondent that since the composition of the Committee had changed further to the previous hearing, as to whether he wished to have a de-novo hearing. On the same, the Respondent denied and opted for a de-novo hearing. Accordingly, the Committee acceded to the request of the Respondent and continued the matter from the stage at which it was last heard.
- 11.2 Accordingly, the Committee asked the Respondent to present his case. The Counsel for the Respondent while presenting his line of defense explained the role of the Respondent and submitted that the Respondent was rightly held Not Guilty by the Director Discipline, however, the Board did not concur with the findings of the Director Discipline and referred the matter to the Disciplinary Committee. Thereafter, the Counsel made his submissions in detail.
- 11.3 On consideration of the same, the Committee gave directions to the Respondent to collect the following documents/ information in next 15 days:
- a) Appointment letter of the Respondent, scope of the audit, and duties of the Respondent as Concurrent Auditor.
 - b) English translation of the Special Audit Report.
 - c) Synopsis of reply to the allegations made by the Special Auditor.

With the above, the Committee decided to adjourn the hearing.

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12. On the day of the third hearing held on 28th July 2023, the Committee noted that neither the Complainant was present, nor any intimation received from him despite the notice of hearing was duly served upon him. The Respondent vide e-mail dated 25th July, 2023 sought an adjournment on the ground of non-availability of the translated Special Audit Report as well as the Audit Report, which he was required to submit as per the directions of the Committee. Keeping in view the principles of natural justice and reasons mentioned by the Respondent in his adjournment request, the Committee decided to accede to the adjournment request made by the Respondent. With this, the hearing in the above matter was adjourned at the request of the Respondent.
13. On the day of the fourth hearing held on 23rd August 2023, the Committee noted that the Complainant Department vide their email dated 22nd August, 2023 had sought adjournment till second week of September, 2023 for preparation in the matter. The Respondent was informed by the Committee about the request of the Complainant Department. The Committee also directed the office to list this case along with case filed by the Complainant against CA. Purshottam Gupta. With this, the hearing in the matter was adjourned at the request of the Complainant.
14. On the day of the fifth hearing held on 18th September 2023, the Committee noted that the Complainant vide email dated 15th September 2023 submitted that the Committee may take its decision in the aforesaid matter based on the documents on record. The Committee further noted that the Respondent and his Counsel were present through video conferencing and sought adjournment on ground of obtaining copy an English translated copy of Concurrent Audit Reports. The Committee looking into the adjournments taken and delay in getting the translated copies by the Respondent directed the Respondent's counsel (CA. Sharad Vaze) to submit the translated copy within next 2 weeks. Accordingly, the instant matter was adjourned to a future date.
15. The sixth hearing held on 17th October 2023 was deferred due to paucity of time.

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16. On the day of final hearing held on 31st October 2023, the Committee noted that the Complainant vide email dated 6th October 2023 submitted that he has nothing further to submit and the matter may be decided based upon documents/ submission on record. The Committee further noted that the Respondent along with his Counsel CA. Sharad Vaze was present through Video Conferencing Mode. Thereafter, the Respondent was asked to make his submissions.
- 16.1 The Respondent's Counsel presented his line of defence, inter-alia, stating as under:
- a. It is past practice of the Society to appoint auditors in fag end and hence the Respondent took the audit in the fag end.
 - b. As per the Special audit report there was no direct or indirect observation/ comment on the performance of the Respondent Firm while conducting concurrent audit of the said Branch.
- 16.2 The Committee posed certain questions to Respondent Counsel to understand the issue involved and the role of the Respondent in the case. The Committee noted that as per records the Respondent firm was blacklisted on 26th July 2017. On the same, the Respondent/ his Counsel submitted that his client had applied before Hon'ble High Court for granting of stay on the same.
- 16.3 On consideration of the submissions of the Respondent, the Committee gave directions to the Respondent to submit the following documents:
- a. Order for the blacklisting of his firm.
 - b. Present status of Stay on the above Order.
- With the above directions, the Committee concluded the hearing and reserved its judgment.
17. Thereafter, this matter was placed in meeting held on 23rd January 2024 for consideration of the facts and arriving at a decision by the Committee. The Committee noted pursuant to its direction given in the hearing held on 31st October 2023, the Respondent has submitted the required documents.



- 17.1 Upon consideration of the facts of the case vis-à-vis the material on record and the submissions of the parties, the Committee passed its judgment.

FINDINGS OF THE COMMITTEE:

18. The Committee noted that the charge against the Respondent **CA. Ramdas Rajpal** (Respondent) was that the Respondent / Respondent firm in its capacity as the concurrent auditor for F.Y. 2014-15 of Dabhaura Branch of District Central Co-operative Bank, Rewa, MP had failed to communicate to the Bank's Management about the unusual behaviors and irregular procedures to prevent fraudulent embezzlement in a timely manner, due to which the fraud continued for two long years which in turn caused huge loss to the bank i.e., around Rupees 23 crores. The Respondent, however, simply stated that the special auditor had not mentioned irregularities on the part of the Respondent or commented on the duties assigned to them in their Special Audit Report.
19. The Committee noted that sequence of events in this case is as follows:

Date	Particulars
10/07/2012	Board Resolution – Migration to Computerised Accounting by Bank
12/02/2015	Appointment of Respondent Firm as Concurrent Auditor for FY 2014-15
24/02/2015	Detection of embezzlement by Joint Registrar
17/04/2015	Constitution of Committee to conduct Special Audit
24/09/2015	Submission of Concurrent Audit Report to Bank by the Respondent.
14/10/2015	Submission Special Audit Report (SAR)
26/07/2017	Black-listing of Respondent firm
05/07/2019	Stay Order passed by Hon'ble High Court, Madhya Pradesh on the above black-listing of the Respondent firm.

B. S. Shukla

20. The Committee noted that Board of Discipline had referred this matter to Disciplinary Committee mainly on the ground that the Respondent was appointed as a concurrent auditor at the fag end of the financial year and the same was accepted by him without any questioning in this regard in itself shows that the Respondent was not aware of the purpose of his appointment and took the assignment casually as it defeats purpose of concurrent audit which is to have a systematic and timely examination of the financial transactions on a regular basis so as to ensure timely detection of irregularities and lapses.
21. The Committee in this regard noted that it was the practice of DCC Bank to appoint auditors in fag end. Even the concurrent auditor for previous financial year 2013-14 (CA. Purushottam Gupta) was appointed on 25th January 2014. As regards the acceptance of the Respondent on the same, the Committee noted that if the bank is appointing its concurrent auditors in fag end, then the onus of the same cannot be shifted on the Respondent as in any case the purpose of appointment is to have the accounts audited in a rightful manner by an independent auditor. The Committee further observed that if the Respondent had not accepted the audit, then any other auditor would have taken the assignment. The Committee, hence, viewed that conduct of audit subsequent to appointment is more important than the time of acceptance of audit.
22. The Committee on perusal of concurrent audit report noted that the Respondent in his concurrent audit report that there were certain accounts where KYC norms had not been followed. He had also given other comments regarding deficiencies been found by him like cash book not available with branch, DD are not kept in security, Chartered Accountants audit report not being provided, maintenance of record keeping not proper, all vouchers not available, etc
23. The Committee further noted that as per Clause no. 11 of the appointment letter, audit assignment will automatically stand terminated on 15th June 2015 whereas the Respondent submitted his audit report on 24/09/2015 i.e., after 7

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months of appointment, which infers that he had not completed the audit in hurry and took sufficient time to complete the task assigned to him.

24. Further, on perusal of Special audit report, the Committee noted that the Special audit report submitted by the Complainant nowhere mentions the role of the Respondent in alleged misappropriation of funds of branch/ bank. It is further observed that the Special Audit Report has specifically mentioned the role of branch officials of DCC bank, wherein it is stated that the branch has no senior manager/ officials to check the day-to-day workings during the said period of misappropriation of funds and thus, the alleged fraud perpetrated.
25. Hence, the Committee noted that in the special audit report which was issued after one month of the concurrent audit report, no negligence was pointed out against the Respondent.
26. The Committee also noted that in the special audit report, it was mentioned that on account of the absence of signature cards/ KYC Forms, a coterie of unscrupulous employees forged the cash withdrawals. The Respondent has given necessary comments on KYC norms and further as per appointment letter, the Respondent was not supposed to verify the old accounts KYC forms.
27. The Committee noted that the Respondent's blacklisting Order was stayed by Hon'ble High Court of Madhya Pradesh and there has been no adverse decision against him.
28. Thus, keeping in view the facts emerged as above and other documents on record, the Committee extended benefit to the Respondent.

CONCLUSION

29. In view of the findings stated in the above paragraphs vis-a-vis material on record, the Committee, in its considered opinion, holds the Respondent **NOT GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

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ORDER

30. 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 passed Order for closure of this case.

SD/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

SD/-

(MRS. RANI NAIR, I.R.S. RETD.)
GOVERNMENT NOMINEE

SD/-

(SHRI ARUN KUMAR, I.A.S, RETD.)
GOVERNMENT NOMINEE

SD/-

(CA. SRIDHAR MUPPALA)
MEMBER

DATE: 07TH FEBRUARY, 2024

PLACE: NEW DELHI

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कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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