



भारतीय सनदी लेखाकार संस्थान
(संसदीय अधिनियम द्वारा स्थापित)
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

PR/331/18-DD/27/19-DC/1414/2021

[DISCIPLINARY COMMITTEE [BENCH-II (2024-2025)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

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

[PR/331/18-DD/27/19-DC/1414/2021]

In the matter of:

Shri M Shankaraiah,
General Manager,
Inspection & Audit Department,
Andhra Bank, Head Office,
4th Floor, Koti,
Hyderabad – 500 095.

.....Complainant

Versus

CA. Chhviraj Tejnath Joshi (M. No. 119379),
M/s. J Singh & Associates (FRN 110266W),
Chartered Accountants,
Flat no.904, Bappa Residency Society,
Sakhare Vasti Road, Hinjewadi,
Pune – 411057.

.....Respondent

Members Present:-

Mrs. Rani S. Nair, IRS (Retd.), Government Nominee and Presiding Officer (through VC)
Shri Arun Kumar, IAS (Retd.), Government Nominee (through VC)
CA. Sanjay Kumar Agarwal, Member (in person)
CA. Cotha S Srinivas, Member (in person)

Date of Hearing : 28th March, 2024

Date of Order : 17th May, 2024

1. That vide Findings under Rule 18(17) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Disciplinary Committee was, inter-alia, of the opinion that CA. Chhviraj Tejnath Joshi (M. No. 119379) (hereinafter referred to as the Respondent) is GUILTY of Professional Misconduct falling within the meaning of Item (7) Part I of the Second Schedule to the Chartered Accountants Act, 1949.



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2. That pursuant to the said Findings, an action under Section 21B (3) of the Chartered Accountants (Amendment) Act, 2006 was contemplated against the Respondent and a communication was addressed to him thereby granting opportunity of being heard in person / through video conferencing and to make representation before the Committee on 28th March 2024.

3. The Committee noted that on the date of the hearing held on 28th March 2024, the Respondent was present through video conferencing and made his verbal representation on the Findings of the Disciplinary Committee, inter-alia, stating that the mistake was unintentional and was due to his poor mental health condition as a result of which he could not convey to the partnership firm about his intent to resign from the firm. Currently he is not working also. His father is admitted in the hospital. The family is going through some financial stress and mental tension. Thus, he requested for a lenient view in his case. The Committee also noted that the Respondent in his written representation on the Findings of the Committee, inter-alia, stated as under:

- a. Due to poor mental health, he could not express his viewpoints and therefore did not handover the audit work to other partners or leave the audit.
- b. He doesn't have substantial interest in the firm M/s. J Singh & Associates (He worked on a meager salary of Rs. 30-35 thousand p.m. with 1% share in the said partnership firm) but, still he has been held responsible for not reporting the irregularities in the Audit report.
- c. He requested the Committee to take a logical, practical, and liberal view in the matter, considering his past and present illness, in the interest of justice.

4. The Committee considered the reasoning as contained in the Findings holding the Respondent Guilty of Professional Misconduct vis-à-vis written and verbal representation of the Respondent. The Committee held that since the concurrent audit under question had been conducted by the Respondent, he is subsequently estopped from taking the plea that he does not have a substantial interest in the firm.

5. Keeping in view the facts and circumstances of the case, material on record including verbal and written representations on the Findings, the Committee is of the view that it has already been held that despite having serious irregularities in the accounts of two borrowers M/s NIPKO Engineering Services Pvt. Ltd. and M/s Signet Products Pvt. Ltd., the Respondent remained silent and did not care to mention the irregularities in Concurrent Audit Report.

5.1 The Respondent's plea that he was in depression during the relevant time of audit and the Branch Manager has not provided relevant documents to him for verification are not acceptable, because, if the Respondent was not mentally fit at the time of accepting or conducting audit, he should have either left the audit or handed over the audit work to other partners but the Respondent did not do the same.

Shri M Shankaraiah -Vs- CA. Chhaviraj Tejnath Joshi (M. No. 119379)



भारतीय सनदी लेखाकार संस्थान

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5.2 Further, if the Branch Manager had not provided the relevant documents for verification, in that case, he should have pointed out the same in his audit report or written to the senior Bank Officials to the bank. Moreover, the Respondent had written to the RBI only when the Bank issued Show Cause Notice to him. Thus, the Respondent did not perform his duties diligently and was grossly negligent while performing Concurrent Audit of Andheri Mumbai Branch of the Complainant Bank.

5.3 Hence, professional misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 7th February 2024 which is to be read in consonance with the instant Order being passed in the case.

6. Accordingly, the Committee was of the view that ends of justice will be met if punishment is given to him in commensurate with his professional misconduct.

7. Thus, the Committee ordered that CA. Chhviraj Tejnath Joshi (M. No.119379), Pune be Reprimanded under Section 21 B(3)(a) of the Chartered Accountants Act 1949.

sd/-

(MRS. RANI S. NAIR, IRS RETD.)

GOVERNMENT NOMINEE AND PRESIDING OFFICER

sd/-

(SHRI ARUN KUMAR, IAS RETD.)

GOVERNMENT NOMINEE

sd/-

(CA. SANJAY KUMAR AGARWAL)

MEMBER

sd/-

(CA. COTHA S SRINIVAS)

MEMBER

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

मीनू गुप्ता / Meenu Gupta
वरिष्ठ कार्यकारी अधिकारी / Sr. Executive Officer
अनुशासनशास्त्र निर्देशालय / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

CONFIDENTIAL

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

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

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

File No. PR/331/18-DD/27/19-DC/1414/2021

In the matter of:

**Shri M Shankaraiah,
General Manager,
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.....Complainant

Versus

**CA. Chhaviraj Tejnath Joshi (M. No. 119379),
M/s. J Singh & Associates (FRN 110266W),
Chartered Accountants,
Flat no.904, Bappa Residency Society,
Sakhare Vasti Road, Hinjewadi,
Pune – 411057**

.....Respondent

Members Present :-

**CA Ranjeet Kumar Agarwal, Presiding Officer (In person)
Smt. Rani Nair, Govt. Nominee (In person)
Shri Arun Kumar, Govt. Nominee (In person)
CA. Sanjay Kumar Agrawal, Member (In person)
CA. Sridhar Muppala, Member (Through video conferencing mode)**

DATE OF FINAL HEARING: 25th August 2023

DATE OF JUDGEMENT : 13th September 2023

PARTIES PRESENT:

Complainant's Authorised Representative: Shri Anurag Saxena DGM, Union Bank (Present In person)

Counsel for the Complainant: Mr. Sanjeev Sagar, Advocate, Union Bank (Present In person)

Respondent: CA. Chhviraj Tejnath Joshi (Through Video Conferencing mode)

BACKGROUND OF THE CASE:

1. The brief background of the case is that M/s. J Singh & Associates (FRN 110266W) (hereinafter referred to as the "**Respondent firm**") was appointed as Concurrent auditor of Andheri branch (Mumbai) of Andhra Bank (hereinafter referred to as the "**Complainant Bank**") for the financial years 2016-17 and 2017-18. As regard the role of the Respondent firm and irregularities not observed by the Respondent firm, the Complainant provided details as under:-
 - a) The concurrent audit of Andheri Branch (Mumbai) of the Complainant bank was allotted to the Respondent firm for the financial year 2016-17 and the assignment was accepted by the Respondent firm on 26th May 2016. Further, the audit term was renewed for the next financial year 2017-18 vide letter no.666/2/Ren17-18/HO/4666 dated 23rd March 2017.
 - b) The concurrent audit reports upto February, 2018 were submitted by CA. Chhviraj Joshi and for the month of March, 2018, it was submitted by CA. Jayesh Shah (another partner of the Respondent firm).
 - c) The Complainant submitted copies of CARM 2 – a Special Report on serious irregularities submitted by the Respondent firm for the months of August, 2016 to May, 2017, statement of bills purchased during the period August, 2016 to May, 2017 and bills outstanding as on 09th October 2018.
 - d) The Complainant stated that as the concurrent auditor of Andheri Branch of the Complainant Bank, the Respondent firm had to bring out serious

irregularities in the branch to the notice of Controlling Office / Head Office, but the Respondent firm failed to do so.

- e) When the Complainant Bank came to know about the irregularities with regard to bogus bills discounting in two accounts that involved a substantial amount through other sources, the explanation from the Respondent firm was called for vide letter dated 15th March 2018 for not reporting the irregularities in the following accounts:-

S. No.	Party's Name	No. of Bills Discounted and Amount	No. of Bills Outstanding	Status
1.	M/s. NIPKO Engineering Services Pvt. Ltd.	32 for Rs.58.69 Cr.	18	NPA
2.	M/s. Signet Products Pvt. Ltd.	35 For Rs.64.07 Cr.	19	NPA

- f) The Complainant stated that there were numerous irregularities in the aforesaid two accounts such as no sanction letter, no documents obtained by the branch, LR approved transport not verified, P&C (Packing & Credit) not obtained, Branch has not followed laid down delegation of powers while sanctioning loan and confirmation from Zonal Office of the Complainant bank was not obtained and the bills discounted was not reported in ADA (except in the month of August / October, 2016).
- g) In response to the aforesaid letter of the Complainant Bank, the Respondent firm, on the contrary, advised the Complainant Bank to withdraw the explanation letter or else they would report the matter to the RBI as fraud.
- h) Since the response of the Respondent firm was not satisfactory, the Mumbai Zonal Office of the Complainant Bank recommended for termination of services of the Respondent firm vide letter no.0672/2/911 dated 31st March 2018 and for black listing of the Respondent firm with ICAI & RBI.

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CHARGES IN BRIEF

2. In view of the aforesaid background, the Complainant alleged that the Respondent firm being the Concurrent auditor of the Mumbai branch of Andhra Bank failed to report serious irregularities in the monthly reports and had not reported the aforesaid irregularities on timely basis so as to prevent the losses to the Complainant bank and also failed to exercise due diligence.
3. The Committee noted that the Respondent firm has disclosed the name of **CA. Chhaviraj Tejnath Joshi (M.No.119379)** (hereinafter referred to as the "Respondent") as member answerable to the aforesaid allegation. Further, the Respondent vide his declaration dated 04th February 2019 declared that he is responsible for answering the above complaint.
4. The Respondent in his reply at the stage of PFO had, inter-alia, stated as under:-
 - a. That the allegations have been made with ulterior motives just to save skin of the bank officials for dereliction of duty.
 - b. The Respondent denied the allegation that he had not reported the bills discounting done by the Assistant General Manager of the Andheri Branch of Andhra bank.
 - c. He, in the very first month when the bills discounting was done in the branch for the aforesaid alleged borrowers, had reported the same in his monthly report and reported the matter in subsequent reports also.
 - d. That during this timeframe, no action was taken against any branch officials for their lapses or irregularities.
 - e. It was only revealed later that the Branch Manager, who held the position of an officer with the rank of AGM, was personally involved in fraud by discounting bogus bills.
 - f. That when vigilance wing of the Complainant bank was doing investigation of fraud after suspending the Branch AGM, the Respondent firm was pressurized for not filing special report to RBI, however defying the pressure, the Respondent has done his duty and reported to RBI. Annoying with the same, the Complainant Bank filed a complaint with

Indian Bank Association (IBA) and RBI also. Thereafter, IBA illegally without any inquiry has put the name of Respondent firm under the watch list.

- g. The Respondent stated that the Respondent firm approached Hon'ble High Court of judicature at Hyderabad against the above action and obtained an interim Order dated 08th November 2018.
 - h. As per the terms of appointment, he was not supposed to detect the fraud committed by the highest authority in the branch. Further, as required by the appointment letter, Respondent had submitted special report to banking supervision department of Reserve Bank of India (RBI) and also to the CEO of the bank immediately on his confirmation that fraud has happened in the branch.
 - i. That fraudulent activities were known to the bank's higher officials even before the appointment of the then Branch Assistant General Manager in other branch from where he was transferred to the Andheri branch. It was only thereafter when his fraud was unearthed in his previous branch, an inquiry by vigilance wing was initiated in the Andheri branch of the Complainant Bank. Thereby, the Management of the Complainant Bank should have taken the responsibility of posting a tented officer of AGM rank in the branch when his background was doubtful.
5. The Director (Discipline) had, in his Prima Facie Opinion dated 11th November 2020, observed that
- a. the Respondent himself had accepted in his written statement that he was aware of the irregularities in the accounts of the Complainant Bank with respect to bogus discounting of bills and that he had reported the same in CARM-2 report.
 - b. However, no concrete information was shared by the Respondent with the Bank in the said report based on which appropriate action could be initiated against the said parties.
 - c. The Respondent being the concurrent auditor was supposed to protect irregularities at branch level, however the Respondent failed to mention / report the said irregularities in his monthly concurrent Audit Report.

d. Hence, it was viewed that the Respondent has not performed due diligence and he was grossly negligent while performing concurrent audit of Andheri Branch of the Complainant Bank.

6. 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 **Guilty** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949. The said item in the Schedule to the Act states as under:

Clause (7) of Part I of the Second Schedule

"A chartered Accountant in practice shall be held guilty of Professional Misconduct if he --

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

SUBMISSIONS OF THE RESPONDENT ON PRIMA FACIE OPINION:-

7. The Respondent in his written submissions dated 25th March, 2021, apart from re-iterating his earlier submissions, had inter-alia stated as under:
- a. He further submitted that once he had come to know that the Branch head i.e. AGM of the Branch had done fraud, he had submitted special report to the CEO of the bank and also to the Banking supervision division of RBI vide letter dated 26th March 2018, and the same was much before reporting of the fraud by Andhra Bank in the June 2018.
 - b. As such, it is incorrect that he has not reported serious irregularity to the higher officials as per terms and condition of appointment letter.
 - c. It is further submitted that at no point of time, he had admitted that he was aware and knew irregularity in the accounts in question with respect to bogus bill discounting. It is further submitted that the Ld. Director (Discipline) has found that he had reported in his reports in August 2016

and thereafter in October 2016 about name of the borrower, sanction particulars and date of documents and other irregularity in the monthly reports.

- d. He wish to submit that even after reporting from his end, the bank has not initiated timely appropriate action against the branch head. He respectfully submits that once he had submitted his finding and reported in August 2016 Report, the bank should have initiated action in timely manner which they have failed.
- e. That the fraud had been done by the head of the Branch , who did not give timely information and explanation despite his regular reminders so as to classifying the transaction as fraud at the time of occurrence.
- f. He had however continuously reported discounting of the bills in his report. He further submits that whether bills were bogus or otherwise, same cannot be ascertained at the time of discounting in the normal course of concurrent audit.
- g. That during the period from 01st August 2016 to 31st May 2017 more than 75 bills discounted by the two borrowers which were found bogus subsequently by vigilance department of the bank. On the facts and circumstances and contrary to the allegation of the Bank, more than 50 bills which were discounted by the two borrowers were repaid in time which established the fact that not all the bills were bogus. Since he was doing concurrent audit and not the forensic audit, he cannot be held responsible for identification of bogus bills discounting particularly when the Branch head himself had done fraud against his own bank.
- h. That most of the irregularities pointed out are specific to the case and the branch manager did not submit the documents in time despite his best efforts. Further in the very first month i.e. in the August 2016 he had reported the irregularity, which is admitted by the bank but bank did not take action against officer.
- i. It is admitted in the letter issued to him that he had reported in the very first month itself but bank did not submitted action taken report of his finding and the Branch manager subsequently explained to him that subsequent discounting was as per mandate of higher officials.



BRIEF FACTS OF THE PROCEEDING:

8. The Committee noted that instant case was fixed for hearing on following dates: -

S. No.	Date	Status of hearing
1.	07.11.2022	Part heard and adjourned in absence of the Complainant.
2.	28.07.2023	Part heard and adjourned in absence of the Complainant.
3.	10.08.2023	Part heard and Adjourned.
4.	25.08.2023	Concluded and Judgment Reserved.
5.	13.09.2023	Final decision taken on the case

9. On the day of the first hearing held on 7th November 2022, the Committee noted that the Respondent was present alongwith his Counsel CA. Jai Singh through video conferencing mode. The Committee noted that the Complainant was not present despite due notice/e-mail to him. 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 that this was the first hearing, the Committee decided to adjourn the hearing to a future date. With this, the hearing in the matter was part heard and adjourned.
10. On the day of the second hearing held on 28th July 2023, the Committee noted that the Complainant was not present. The Respondent was present through video conferencing. The Committee further noted that the notice of hearing sent to the Complainant was returned as undelivered, hence gave directions to the office to search for the latest address of the Complainant Department and send a notice on the same. Thereafter, the Committee enquired from the Respondent as to whether he wants to have de-novo

hearing or the hearing from the stage as it was left in last hearing. On the same, the Respondent opted for the hearing in continuation to last hearing.

- 10.1 Thereafter, the Respondent reiterated his earlier submissions that he had reported the discrepancies in the very first month of his engagement, however, the higher authorities of the bank have not initiated any action on the same.
- 10.2 The Committee posed certain questions to the Respondent to understand the issue involved and the role of the Respondent in the case. With this, the hearing in the matter was partly heard and adjourned in order to give one more opportunity to the Complainant in case he wants to submit any further submissions.
11. On the day of the third hearing held on 10th August, 2023, the Committee noted that the Respondent was present through Video Conferencing Mode. The Committee noted that the Complainant's Authorized Representative(s), Mr. Sanjeev Sagar, Advocate, Union Bank and Mr. Anurag Saxena, DGM, Union Bank were present physically.
- 11.1 Thereafter, the Committee asked the Respondent to make his submissions. The Respondent in his submissions had inter-alia submitted as under:
- a. That he had already submitted all his submissions and there is nothing much left to submit.
 - b. That he was in depression and due to mental health, he was not able to get the bank audit assignment.
 - c. That if his state of mind was healthy he would not have taken the assignment or would have been more precise and accurate in his work.
 - d. When he came to know that there was some problem with the bank manager, his partner CA. Jai Singh had already informed the RBI.
 - e. That when he received the explanation letter from the Bank he had directly reported the said matter to RBI.



- 11.2 Thereafter, the Committee asked the Complainant Authorized Representative to make his submissions. The Complainant Authorized Representative in his submissions had inter-alia mentioned as under:
- a. That both the alleged accounts were declared as fraud subsequently and disciplinary action was taken against the branch officials at that point of time.
 - b. That the Respondent had reported to RBI only after the bank issues show cause notice to him.
 - c. That the Respondent firm was appointed on 24th May 2016 and thereafter on 23rd March 2017 for next financial year.
 - d. The Branch manager was also duly involved in sanctioning of loan to the alleged accounts and the action was taken against him and the others who are involved.
 - e. That the Respondent despite knowing about the fraud had not reported the same to the Bank.
 - f. When the amount against the bill discounting was not received by the Bank then only the bank came to know that these were wrongly issued by the branch manager and the auditor at the same time had not informed the same.
- 11.3 The Committee posed certain questions to both parties to understand the issue involved and the role of the Respondent in the case. On consideration of the same, the Committee gave directions to the Complainant Authorized Representative to submit the following within next 10 days with a copy to the Respondent:
- a. Action taken by the Bank against the bank officials who were involved in the fraud.
 - b. Action taken by the Bank against the alleged parties (i.e. Client of the Respondent).
 - c. Date on which the accounts became NPA

With this, the hearing in the matter was partly heard and adjourned.

12. On the day of the final hearing, held on 25th August 2023, the Committee noted that the Respondent was present through Video Conferencing Mode and the Complainant's Authorized Representative(s) were present physically. The Committee noted that the Respondent reiterated his earlier submissions that he had reported the irregularities in his report. The Complainant Authorized Representative submitted his reply on the directions given by the Committee during the last hearing.
- 12.1 Thereafter, the Committee asked the Complainant Authorized Representative to make his submissions. The Complainant Authorized Representative in his submissions had inter-alia submitted as under:
- a. That the bank had declared the alleged accounts as fraud on 15th May 2018 and the fraud was of around Rs 75.99 crore.
 - b. That the alleged accounts are sister Companies with same directors.
 - c. That the bank had lodged complaint in the instant matter with CBI in September 2019.
 - d. That the said accounts were red flagged and it was observed that no approval, no transactional details and vital facts were actually examined.
 - e. That the said sanction was disputed and illegal.
 - f. That the bank had also initiated recovery proceedings before DRT.
 - g. Since there were no security due to which SARFAESI proceedings could not be initiated.
 - h. That one of the branch officials who was involved in the said fraud was terminated and the other one was imposed with minor penalty because his role was very minimal.
 - i. That the statutory auditor had point out the said fraud hence there is no question of any action against them.
- 12.2 The Committee posed certain questions to both the parties to understand the issue involved and the role of the Respondent in the case. On consideration of the same, the Committee gave directions to the Complainant to submit the level of NPA in the concerned branch of the bank during the financial years 2016-17 and 2017-18 within next 10 days.

12.3 The Committee also gave directions to the Respondent to submit his response on the submissions of the Complainant made on 25th August, 2023 within next 10 days. Accordingly, keeping in view the facts and circumstances of the case, the material on record and the submissions of the parties, the Committee reserved its judgement.

13. Thereafter, this matter was placed in hearing held on 13th September 2023 wherein the same members, who heard the case earlier, were present for consideration of the facts and arriving at a decision by the Committee. The Committee noted pursuant to its direction given in the meeting held on 25th August 2023, the Complainant and the Respondent both had submitted the required submissions/documents. On perusal of the same, the Committee noted that the Respondent in his submissions had inter-alia submitted as under:

- a. That he is a patient of depression which is a chronic disease and for which life-long medicine is the only remedy. He was trapped in the vicious cycle of the said disease because of which he could not deny taking audit work, and after taking up the work, he could not withdraw himself from the audit assignment.
- b. The Respondent stated that if he had been in a slightly proper mental condition, he would have been extra cautious in his work or if he was not able to do justice with his work, he would have declined the assignment and done some taxation or other work in the firm. So it was unintentional and he could not do anything about it. He was under the influence of stress medicines which reduced his capability to work effectively and efficiently to some extent.
- c. That it is true that the Complainant Bank has been caused loss (NPA). It is also true that the Complainant Bank, in appointment letter, mentions auditors' duty to find revenue leakage, KYC etc. and many other number of work as expected from the concurrent auditor. However, just as in other profession there is an implied disclaimer in CA profession also, as no profession is foolproof.
- d. That in case of a surgeon who does 500 operations, there is a quite possibility that 1 or 2 operation may fail; similarly, in case of a CA who

signs 100 balance sheets, there is a possibility that in 1 or 2 balance sheets, there might be some errors which may inadvertently happen. Further, the auditor is a watchdog not a bloodhound, accordingly, he was not expected to delve deeper in details unless it is a forensic assignment.

- e. The signing partner and the principal partner of the firm should be held responsible for any lapses in the audit work in proportion to their stake in the firm. The Respondent was only 1% partner in the firm and signed the audit report.

Accordingly, keeping in view the facts and circumstances of the case, the material on record and the submissions of the parties, the Committee passed its judgment.

FINDINGS OF THE COMMITTEE:

14. The Committee noted that the Complainant alleged that the Respondent firm being the Concurrent auditor of the afore-stated Andheri Mumbai branch of Andhra Bank failed to report serious irregularities in the monthly reports, not reported the aforesaid irregularities on timely basis so as to prevent the losses to the Complainant bank and also failed to exercise due diligence. In respect of allegation, on perusal of letter dated 15th March 2018 through which the Complainant bank has issued show cause to the Respondent firm, it is noticed that the following irregularities were pointed out by the bank regarding discounting of bills of two parties, i.e. M/s. Nipko Engineering Services Pvt. Ltd. and M/s. Signet Products Pvt. Ltd.:
 - a. No Sanction Letter,
 - b. No documents obtained by the branch,
 - c. LR approved transport not verified,
 - d. P&C not obtained,
 - e. Branch has not followed laid down delegation of powers while sanctioning loan and confirmation from Zonal Office not obtained,
 - f. The bills discounted not reported in ADA (except in the month of August, 2016),
 - g. All outstanding bills became NPA,

As per the Complainant, the Respondent had not mentioned the abovementioned irregularities in his monthly concurrent audit reports and as per them, if these irregularities were reported on timely basis, remedial action could have been initiated at their end.

15. The Committee from the verbal and written submissions of the Respondent noted that though initially the Respondent denied the charges against him yet later the Respondent tried to take shelter under defense that since he was in depression and due to taking heavy medicine at the relevant time of audit, there could have been a chance that some error might have remained unnoticed.
16. It is noticed that the Respondent firm (M/s. J Singh & Associates) was appointed as concurrent auditor of Andheri Mumbai Branch of the Complainant Bank for the financial years 2016-17 on 24th May 2016. Thereafter, the Respondent firm was re-appointed as concurrent auditor for the next financial year 2017-18 on 23rd March 2017. The objectives & terms and conditions of the concurrent audit assignment include the following:-

".....the minimum expectations from the Audit firm are:-

- *Perfect, error-free Loan Documentation.*
- *Strict compliance with "Know Your Customer" guidelines for all newly opened accounts.*
- *Zero Revenue Leakages.*
- *Good House Keeping and better Internal Controls.*
- *Early alerts to Top Management on serious lapses / deficiencies.*
- *"Low Risk" rating under Risk Based Internal Audit (RBIA).*
- *Assets Quality*
- *Unit Inspections.*

Auditors are requested to note that Concurrent Audit is 100% Transaction checking in respect of all critical operations.

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10. In terms of Reserve Bank of India's guidelines, you are advised to:-
"Specifically report, simultaneously, to the Chief Executive Officer of the Bank and Central Office of the Department of Banking Supervision, RBI Mumbai, any matter susceptible to fraud or fraudulent activity or any foul play in any transactions. Any deliberate failure on the part of the auditor should render himself liable for action.
-
32. Concurrent Auditors have to ensure strict compliance to Income Recognition and Assets Classification (IRAC) norms as specified in Head Office circulars from time to time.
33. Auditors are also advised to verify all Non-Performing Assets (NPAs) to ensure proper calculation of interest / progress in recovery. Auditor should comment on adequacy of follow up / Recovery efforts in NPA accounts.
-
38. The concurrent auditor has to give a report on pre-disbursement on loans/advances sanctioned/dispursed during the month and only on receipt of the same, the branch will disburse the loan. ...
39. With a view to draw attention of higher authorities to serious problems and persistent irregularities two exclusive formats are provided. To highlight irregularities of serious nature or matters susceptible to fraud or fraudulent activities, an exclusive Reporting Format CAR Special (CAR-2) is devised and, CAR-3 is designed for reporting persistent irregularities. Concurrent Auditors are expected to use the format judiciously."
17. From the above, it was noticed by the Committee that the Respondent as concurrent auditor was not only required to do 100% transactions checking but also required to give report on pre-disbursement on loans/ advances sanctioned/dispursed and verify all NPAs. In addition to that, he was required to highlight irregularities of serious nature or matters susceptible to fraud or fraudulent activities in forms CARM-2. As regard the reporting made by the Respondent with respect to irregularities in advances accounts, it is observed

that the Respondent has made reporting in respect of following borrower only in his concurrent audit reports:-

Sl. No.	Name of the Borrowers	Concurrent audit report for the month of	Nature of Irregularities
1.	JK Coil Coating Pvt Ltd.	August, 2016	QIS & ECR is not obtained.
2.	JK Coil Coating Pvt Ltd.	October, 2016	QIS report is not submitted for June Quarter
3.	JK Coil Coating Pvt Ltd.	November, 2016	QIS (Quarterly Information Statement is not submitted for June & September Month)
4.	JK Coil Coating Pvt Ltd.	May, 2017	QIS not submitted since two quarters.

18. Hence, from the above, it is clear that the Respondent had only mentioned irregularities related to accounts of one borrower only and he did not mention anything in respect of two loan accounts pertaining to M/s. Nipko Engineering Services Pvt. Ltd and M/s. Signet Products Pvt. Ltd as alleged by the Complainant.
19. Further, from the letter dated 26th March 2018 written by the Respondent to the RBI, it is noted that the Respondent in the said letter mentioned about the bills discounting transactions which prima facie appears to be transactions of susceptible to be fraud or fraudulent activities pertaining to the aforesaid two borrowers. Apart from these, the Respondent had mentioned as under:-

"Nipko Engendering Services Pvt. Ltd (Sic).

Nipko Engendering Services Pvt. Ltd. (Sic) during the period from 10.08.2016 to 11.04.2017 submitted total 31 bills amounting to Rs.60,66,19,480.00 and

payment were received for 14 Bills amounting to Rs.27,23,21,800.00. Balance 17 Bills amounting to Rs.33,42,97,680.00 are outstanding as on dateThe account has become NPA on 31.10.2017..

Signet Products Pvt. Ltd.

Signet Products Pvt. Ltd. during the period from 05.10.2016 to 17.05.2017 submitted total 36 bills amounting to Rs.70,74,45,357.00 and payment were received for 16 Bills amounting to Rs.31,18,65,089.00. Balance 20 bills amounting to Rs.39,55,80,089.00 are outstanding as on dateThe account has become NPA on 31.10.2017."

20. From the above, it is clear that the aforesaid transactions of bills discounting took place during the period covered under the concurrent audit of the Respondent firm. The Respondent in letter to the RBI stated that bills discounting transactions with the aforesaid two parties could be fraud but he has never mentioned anything about the bills discounting transactions related to abovementioned two parties in his concurrent audit report. Moreover, the Respondent has not mentioned anything in his audit report about becoming of the aforesaid loan as NPA.
21. It is noted that the Complainant had made serious allegations such as sanction letter has not been verified, delegation of powers has been breached while sanctioning of loan, necessary permission has not been taken from Zonal Office and necessary documents have not been obtained by the branch for the loan etc. but the Respondent did not bring on record any documents to indicate that he had verified the documents related to loan given to M/s. Nipko Engineering Service Pvt. Ltd and M/s. Signet Products Pvt. Ltd.
22. Hence, it appears that despite having these serious irregularities in the accounts of aforesaid two borrowers, the Respondent remained silent and did not care to mention these irregularities in concurrent audit report. This indicates that the Respondent failed to verify the transactions related to these two parties and accordingly, failed to report the irregularities in bills discounting and about overdue amount in loan accounts.

23. The Committee also observed that the Respondent's plea that he was in depression during the relevant time of audit and the branch manager has not provided relevant documents to him for verification are not acceptable. In this regard, the Committee is of the view that if the Respondent was not mentally fit at the time of accepting or conducting audit, he should have either left the audit or handed over the audit work to other partners but the Respondent did not do the same.
24. Further, if the branch manager had not provided the relevant documents for verification, in that case, he should have pointed out the same in his audit report or written to the senior bank officials to the bank but there was nothing on record to show that the Respondent has taken any such steps.
25. Moreover, the Respondent had written to the RBI only when the bank issued show cause notice to him. Therefore, there was nothing on record to show that the Respondent has verified the transactions related to bills discounting in case of M/s. Nipko Engineering Service Pvt. Ltd and M/s. Signet Products Pvt. Ltd.
26. Therefore, it is viewed that if the Respondent had reported the irregularities in bills discounting and about overdue amount in loan accounts pertaining to the parties covered in allegation, the bank would have been able to take necessary action on time.
27. The Committee also noted that though misconduct on the part of the Respondent was established yet the conduct of the Complainant bank was also not appreciable. The Complainant Bank could not bring on record as to what action has been taken by them in respect of irregularities mentioned by the Respondent in case of M/s. JK Coil Coating Pvt. Ltd. The Complainant Bank only stated that disciplinary action was taken against the erring officials of the branch, but they could not produce any evidence in support of the same.
28. In view of the above facts and observations, the Committee is of the view that the Respondent did not perform his duties diligently and he was grossly

negligent while performing concurrent audit of Andheri Mumbai Branch of the Complainant Bank.

CONCLUSION:

29. In view of the above observations, considering the submissions of the Respondent and documents on record, the Committee held the Respondent **GUILTY** of Professional Misconduct falling within the meaning of Item (7) Part I of the Second Schedule to the Chartered Accountants Act, 1949.

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. SANJAY KUMAR AGARWAL)

MEMBER

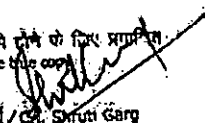
Sd/-

(CA. SRIDHAR MUPPALA)

MEMBER

DATE: 07th February, 2024

PLACE: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

श्री श्रुति गर्ग / CA. Shrutu Garg
सहायक निदेशक / Assistant Director
अनुशासनात्मक निदेशालय / Disciplinary Directorate
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