



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

PR/84/2018-DD/119/2018/DC/1373/2020

[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/84/2018-DD/119/2018/DC/1373/2020]

In the matter of:

**Shri Piyush J. Bhat,
Assistant General Manager (SAO-II)
State Bank of India
Regional Office No. 2, SBI,
Ghod Dod Road,
Surat-395007.**

.....Complainant

Versus

**CA. Jigneshkumar Jaysukhlal Korat (M No. 131303)
M/s Jignesh Korat & Associates,
3026, 3rd Floor, Central Bazar,
Opp. Varaccha Police Station,
Varachha Road,
Surat-395006.**

....Respondent

Members Present:-

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

Date of Hearing : 10th April, 2024

Date of Order : 28th 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. Jignesh Kumar Jaysukhlal Korat (M No. 131303), Surat** (hereinafter referred to as the 'Respondent') is **GUILTY** of Professional and Other Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule and Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.

Shri Piyush J. Bhat, AGM(SAO-II), SBI, Surat-Vs- CA. Jigneshkumar Jaysukhlal Korat (M.No.131303), Surat



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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 10th April 2024.

3. The Committee noted that on the date of the hearing held on 10th April 2024, neither the Respondent was present before it nor was there any intimation as regard his non-appearance. The Committee also noted that the case was earlier fixed on 19th March 2024 for award of punishment and had been adjourned due to paucity of time. Thereafter, the case was fixed on 28th March 2024 and had been adjourned on account of medical illness of the Respondent so as to provide a final opportunity to the Respondent to make his representation before it. The Committee also noted that the Notice for hearing sent at the address available in the member records of ICAI had been received back undelivered. The Notice for the hearing had also been sent to the email address available in the member records of ICAI. As per email delivery intimation for the communication of the date of hearing, the delivery of the said email had been completed. The Committee further noted from the member records of ICAI that 'KYM' Form of the Respondent had been submitted and the same was found 'ok'.

3.1 Thus, the Committee was of the view that all possible efforts (speed post and email) have been made to ensure the delivery of the communication for hearing upon the Respondent, but he chose not to represent it before the Committee. Keeping in view the provisions of Rule 19(1) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee was of the view that the Respondent has nothing more to represent before it and thus, decided to consider his case for award of punishment on the basis of material available on record.

4. The Committee considered the reasoning as contained in the Findings holding the Respondent Guilty of Professional and Other Misconduct.

5. Keeping in view the facts as well as circumstances of the case and material on record, with respect to the first charge, the Committee noted that cash credit limit was sanctioned in favour of M/s New Infra Mobile Care on the basis of a fabricated Tax Audit Report and a fabricated Balance Sheet as on 31st March 2014 certified by the Respondent. This Balance Sheet did not match with the Balance Sheet available on record with the Income Tax Department. The Committee noted that as per the Income Tax website, sales/ turnover of M/s New Infra Mobile Care (as prepared by the Respondent) was Rs. 729.01 lacs, whereas, according to the Tax Audit report submitted to the bank, the same was Rs 2077.57 lacs. There was a material difference of Rs 1348.56 lacs between the actual figure of sales. The Committee noted that there was a material difference of Rs.1348.56 lacs between the actual figure of sales. The Committee noted that the Respondent failed to bring on record any evidence that he had no knowledge of the submission of the fabricated tax audit report with the bank. The Committee noted that the Respondent had not filed any FIR against the client in this regard which creates doubt about his professional conduct. The Committee on perusal of the Certificate dated 19th December 2014 submitted by the Respondent to the bank noted that the stamp of Respondent's firm and his initials on the document is the same when compared with the balance sheet of M/s New Infra Mobile Care submitted with the Bank.

Shri Piyush J. Bhat, AGM(SAO-II), SBI, Surat-Vs- CA. Jigneshkumar Jaysukhlal Korat (M.No.131303), Surat



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5.1 With respect to the second charge, the Committee on perusal of the Certificate issued by the Respondent noted that the Respondent certified that M/s New Infra Mobile Care brought in fresh capital and quasi capital of Rs. 1,47,23,100/- as on date i.e. 19th December 2014 from various parties, which was certified based on books of accounts, other records, provisional records and statements produced before the Respondent for verification. The Committee noted that the Respondent had only produced ledger accounts of respective parties from whom M/s New Infra Mobile Care received the funds which cannot be treated as an exhaustive document to conclude inflow of fresh capital. The Committee noted that the date of sanctioning of the loan is 9th December 2014. The date of the Certificate is 19th December 2014, and the chronology of dates clearly establishes that the certificate is given to fulfill the pre-disbursal condition of infusion of fresh capital. Also, the Respondent did not bring on record any evidence to prove inflow of fresh capital.

5.2 Hence, professional and other 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 and other misconduct.

7. Thus, the Committee ordered that the name of CA. Jigneshkumar Jaysukhlal Korat (M.No.131303), Surat be removed from the Register of Members for a period of 03 (Three) Months and also a Fine of Rs. 1,00,000/- (Rupees One lakh only) be imposed upon him payable within a period of 60 days from the date of receipt of the Order.

sd/-

(CA. RANJEET KUMAR AGARWAL)
PRESIDING OFFICER

sd/-

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

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



अरुण कुमार / Arun Kumar

अनुशासनात्मक निदेशालय / Executive Officer

अनुशासनात्मक निदेशालय / 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

Shri Piyush J. Bhat, AGM(SAO-II), SBI, Surat-Vs- CA. Jigneshkumar Jaysukhlal Korat (M.No.131303), Surat

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/84/2018-DD/119/2018/DC/1373/2020]

In the matter of:

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Surat-395006

.....Respondent

MEMBERS PRESENT:

CA. Ranjeet Kumar Agarwal, Presiding Officer (Present in person)
Mrs. Rani Nair, I.R.S. (Retd.), Government Nominee (Present in person)
Shri Arun Kumar, I.A.S. (Retd.), Government Nominee (Present in person)
CA. Sanjay Kumar Agarwal, Member (Present in person)
CA. Sridhar Muppala, Member (Present in person)

DATE OF FINAL HEARING: 10.07.2023 (through physical/video conferencing mode)

PARTIES PRESENT :

Authorised Representative of Complainant: Mr. Ashok Prasad (Through Video Conferencing Mode)

Respondent: Through Video Conferencing Mode

BACKGROUND OF THE CASE:

1. The brief background of the case is as under:
 - a. That a complaint dated 16th March 2018 was received against the Respondent wherein the matter relates to financial statements submitted to the Complainant Bank for disbursement of loan which were found false.
 - b. A cash credit limit of Rs. 500.00 Lacs was sanctioned and disbursed by the Complainant Bank in favour of **M/s New Infra Mobile care** (hereinafter referred to as the "**the NIMC**") on 16th December 2014 on the basis of the Tax audit report for the financial 2013-14 of the NIMC signed by the Respondent on 16th September 2014.
 - c. However, during the review exercise, the Complainant bank observed that the tax audit report as on 31st March 2014 of the NIMC signed by the Respondent for sanctioning of the cash credit facility did not match with the financial statements of the NIMC submitted with the Income Tax Department.
 - d. Further both the sets were signed and certified by the Respondent.
 - e. On further scrutiny, it was found that as per the Balance Sheet submitted with the Income tax, the sales/ turnover of the NIMC was Rs. 729.01 lacs, whereas, according to Balance Sheet submitted to the bank, the same was Rs 2077.57 lacs.

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- f. Since, the financials submitted by the Respondent did not reconcile, therefore the Complainant bank wrote letters dated 23rd January 2017 and 10th February 2017 to the Respondent. However, the bank did not receive any reply/ clarification from the Respondent.
- g. Apart from above, the Respondent submitted a certificate dated 19th December 2014 to fulfil the pre-disbursal condition of fresh capital of Rs. 145.42 lacs upfront from the Bank.
- h. However, it was found by the Complainant Bank that there was no capital infusion as the closing capital balance of the NIMC as per the audited Balance Sheet as on 31st March 2014 uploaded at the website of the Income Tax Department was Rs.42.72 lakhs whereas, as, per estimated data submitted to the Complainant Bank the same was Rs.197.74 lakhs.
- i. Due to this, the bank fell in trap while taking credit decision resulted in over financing.

CHARGES IN BRIEF:-

2. The Committee noted that the allegations against the Respondent were as under:
 - a. That cash credit limit has been sanctioned in favour of the NIMC on the basis of a fabricated Tax Audit Report and a fabricated balance sheet as on 31st March 2014 certified by the Respondent. This Balance Sheet does not match with the balance sheet available on records with Income Tax Department.
 - b. Cash credit limit has been sanctioned in favour of the NIMC on the basis of a false capital infusion certificate dated 19th December 2014 certified by the Respondent in collusion with the Proprietor which resulted in over financing.

3. The Committee noted that the Respondent in his reply at the stage of PFO had, inter-alia, mentioned as under:

- a. That the financials of the NIMC for the FY 2013-14 were audited by him and the tax audit report along with financials were duly uploaded by him on the website of the Income Tax Department.
- b. However, someone else, who was doing loan paperwork for the NIMC, submitted the forged audit report of the NIMC with the bank along with financials inflating turnover from 729.01 Lacs to Rs. 2077.57 Lacs.
- c. That as per his engagement letter, he was concerned with the Tax audit activities only.
- d. All the post audit activities like fabrication of the Tax Audit Report and financials, submission of those reports to the concerned bank, sanctioning of credit facilities and disbursement etc. were completely out of his knowledge.
- e. The Respondent further asserted that he became aware of the fabrication of documents only after the receipt of letter from the Institute.
- f. With regards to second charge, the Respondent has submitted that he had duly verified the details and certified the same as per Guidance Note on Reports or Certificates for Special Purposes issued by ICAI.
- g. That the certification reflected the true and correct position of contents as on the date of verification because the same was issued based on management representation letter dated 19th December 2014.
- h. That the VAT returns filed by the NIMC reflected turnover for both the financial years i.e. 2013-14 & 2014-15 and were properly matched with the turnover shown in the financial statements of both the said years.
- i. That he carried out vouching of sales bills issued by the concern on a random basis and the figures shown in the sales register matched with the figures shown in VAT returns filed by the NIMC for the respective quarter ending for both the FY 2013-14 and 2014-15
- j. He further stated that he could not respond to the two letters dated 23rd January 2017 and 10th February 2017 from the bank, due to a medical emergency in his family during his wife's pregnancy and also due to the

shifting of office to new premises. Nonetheless, he was not answerable to the bank directly without any professional/ commercial/ legal/ contractual relationship.

4. The Director (Discipline) had, in his Prima-facie opinion dated 10th August 2020, noticed as under:
- a. That the Respondent was asserting that he had no knowledge of fabrication of financial statements before the receipt of the letter of the Institute dated 21st May 2017. However, the statement of Respondent does not appear to be convincing.
 - b. As on one hand, he was stating that someone else had submitted the Tax Audit Report to the bank and on other hand, he vide his Written Statement has admitted the receipt of two letters dated 23rd January 2017 and 10th February 2017 of the bank and has also gone on to explain that he could not respond to the same due to medical and personal reasons.
 - c. Further, even if, it was assumed, that the documents submitted with the bank were forged, still it was surprising that the Respondent did not act upon it by filing an FIR or by any other method from the date of 23rd January 2017 or 10th February 2017 when he came to know about the submission of different documents for the same year submitted with the bank and the Income tax website both under the name seal and signature of the Respondent.
 - d. With respect to second charge, it was observed that the assertion of the Respondent that he was not involved in any paperwork for loan of the NIMC stands defeated as the certificate was prepared by the Respondent.
 - e. Further, as per the said certificate, the Respondent certified that the NIMC brought in fresh capital and quasi capital of Rs. 1,47,23,100/- as on date from various parties which was certified based on books of accounts, other records provisional records, and statements produced before the Respondent for verification, however the Respondent only produced ledger accounts of respective parties from whom the NIMC received the funds which cannot be treated as an exhaustive document to conclude inflow of fresh capital.

- f. Also, the assertion of the Respondent that the impugned certificate was issued based on the management letter dated 19th December 2014 whereby the management took full responsibility for issuance of capital and quasi capital certificates is not acceptable since as a professional, he must work towards stating true financials rather than simply falling back upon management letters.
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 **Guilty** of Professional and Other Misconduct falling within the meaning of Item (2) of Part IV of the First Schedule and Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 read with the section 22 of the said act. The said items in the Schedule to 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"

Item (2) of Part IV of the First Schedule:

"A member of the Institute whether in practice or not, shall be deemed to be guilty of professional misconduct, if he-

(2): in the opinion of the Council, brings disrepute to the profession or the Institute as a result of his action whether or not related to his professional work"

SUBMISSIONS OF THE RESPONDENT ON PRIMA FACIE OPINION:

6. The Committee noted that the Respondent in written submissions dated 27th May 2021 had, inter-alia, mentioned as under:
- a. That the certificate was issued based on his verification of books of accounts and in the said certificate it is clearly mentioned that "M/s New Infra Mobile Care" had brought in fresh capital and quasi capital of Rs. 1,47,23,100/-.
 - b. It was never mentioned that the NIMC brought capital as alleged by the bank. Hence, the claim of the bank that the Certificate was false is misreading. There was no professional misconduct or negligence on his part at all.
 - c. Further, the conditions of sanction of Cash Credit were to introduce Rs. 145.42 lakhs in financial year 2014-15. In his certificate he had clearly mentioned the words "Capital and Quasi Capital".
 - d. Hence, it was the duty of the Bank Officials to verify the contents of the Certificate. They did not even bother to read the Certificate carefully and now, they want to shift the onus and responsibility on him just to save their officers.
 - e. Further, the said certificate was issued as "To Whomsoever it may concern" and not to the bank.
 - f. He had issued the certificate for general purpose and not specifically for bank loan purpose.
 - g. Hence, the allegation of the Bank that on the basis of the false certificate issued by him, they had sanctioned the cash credit limit is nothing but afterthought, just to safeguard their employees and making him a scapegoat.
 - h. The Respondent with respect to allegation that he had submitted the fabricated audit report for availing the bank loan submitted that bank had not produced any single evidence that he had fabricated the audited balance sheet and submitted to them.
 - i. He had filed the police complaint about forgery of his audit report and also requested the Commissioner of Police to verify the signatures.
 - j. That he had never submitted the audited balance sheet to the bank directly.

BRIEF FACTS OF THE PROCEEDINGS:

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

| S.No. | Date | Status of Hearing |
|-------|------------|---|
| 1. | 25.04.2022 | Adjourned on the request of the Respondent |
| 2. | 05.08.2022 | Adjourned on the request of the Respondent |
| 3. | 07.12.2022 | Adjourned on the request of the Respondent |
| 4. | 29.12.2022 | Part heard & Adjourned |
| 5. | 16.01.2023 | Adjourned on the request of the Respondent |
| 6. | 11.04.2023 | Part heard & Adjourned |
| 7. | 30.05.2023 | Adjourned in the absence of the parties |
| 8. | 31.05.2023 | Fixed and Adjourned |
| 9. | 20.06.2023 | Part heard and Adjourned on the request of the Respondent |
| 10. | 10.07.2023 | Concluded and Judgment Reserved |
| 11. | 25.08.2023 | Final Decision Taken on the case |

8. On the day of the first hearing held on 25th April 2022, the Committee noted that the Respondent vide email dated 21st April 2022 had sought an adjournment on the ground that his counsel, Shri Hardik Shah, is busy with other work and requires time to study the case. The Complainant was also not present. The Committee looking into the same granted the adjournment to provide one more opportunity to the parties.
9. On the day of the second hearing held on 5th August 2022, the Committee noted that the Respondent vide email dated 1st August 2022 had sought an adjournment on the ground that his counsel, Shri Hardik Shah, is busy with other work and requires time to study the case. The Committee looking into the same granted the adjournment to provide one more opportunity to the parties.
10. On the day of third and fifth hearing held on 7th December 2022 and 16th January 2023 respectively, the Committee noted that the Complainant was

not present, and no intimation was received from the Complainant in reply to the duly served notice. The Committee noted that the Respondent sought an adjournment on the ground that his authorized representative was not available. The Committee looking into the grounds of natural justice acceded to the request made by the Respondent and accordingly adjourned the hearing.

11. On the day of fourth hearing held on 29th December, 2022 the Committee noted that the Respondent along with his Counsel CA. Hardik P. Shah were present from their place through Video Conferencing Mode. The Committee noted that the Complainant was not present and no intimation was received from him in reply to the duly served notice.

11.1 Thereafter, Counsel for the Respondent presented his line of defence by presenting the arguments and submitted as under:

- a. That Balance Sheet certificated by him was given by his client to some other person, and that person forged the same and submitted the forged set of financials to the Complainant Bank.
- b. The Respondent had also filed a FIR about forgery of his audit report and also requested the Commissioner of Police to verify the signatures which is still pending.
- c. That there was no discrepancy between the financial statement and the certificate of infusion of capital issued by him.
- d. That the communications sent by the Bank do not mention any fraud or forgery.

11.2 Thereafter, the Committee directed to the Respondent to submit the following documents/ information within next 10 days:

- a. To establish how an unsecured loan is treated as quasi capital.
- b. Present status of FIR filed by him.
- c. Details along with dates of loan approved, disbursement date, date of issue of certificate, date of release of instalments.

- 11.3 With this, the hearing in the matter was partly heard and adjourned.
12. On the day of sixth hearing held on 11th April, 2023, the Committee noted that the Complainant was not present. However, the Respondent was present from their place through Video Conferencing. 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 opted for a de-novo hearing. Accordingly, the Committee acceded to the request of the Respondent and started a fresh hearing in the matter.
- 12.1 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, the Respondent requested an adjournment of the case due to the non-availability of his counsel. The Committee, looking into the absence of the Complainant and the request of the Respondent, 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 and adjourned.
13. On the day of the seventh hearing held on 30th May 2023, the Committee noted that none of the parties were present despite due service of notice. The Committee further noted that the Respondent vide his email dated 28th May 2023, informed that his representative would appear through Video Conferencing. The Committee noted that the office vide email dated 29th May 2023 replied to said email by requesting the Complainant to submit requisite documents relating to appearing at the hearing through Video Conferencing i.e., Annexure I and the declaration. The Office informed the Committee that since these were not submitted by the Respondent/ his authorized representative, hence the link of joining the e-meeting was not shared with the Respondent. Thereafter, the Committee, looking into the absence of both parties, i.e. the Complainant and the Respondent and looking into umpteen adjournments from the Respondent, decided to place this matter in the next

hearing, i.e. on 31st May 2023. The office was directed to issue notice to both parties, i.e. the Complainant and the Respondent.

14. On the day of the eighth hearing held on 31st May 2023, the Committee noted that none of the parties were present despite notice duly served through email, and the Respondent was informed by telephone. The Committee noted that at the time of hearing the case, the office tried to reach the Respondent over the phone, but the phone was switched off. Thereafter, the Committee, on account of natural justice, decided to provide the last opportunity to both parties, failing which the case would be decided ex-parte. Accordingly, the matter was adjourned to a future date.
15. On the day of the ninth hearing held on 20th June, 2023, the Committee noted that Mr Ashok Prasad, Chief Manager, SBI, Surat, was present through Video Conferencing mode on behalf of the Complainant's Department. The Respondent vide email dated 19th June, 2023 had sought an adjournment on the ground of the non-availability of his Counsel.
 - 15.1 Thereafter, the Committee asked the Complainant Authorised Representative to make his submissions. The Complainant Authorised Representative submitted that he had nothing further to add, and the documents submitted earlier were final. On a specific question of the Committee regarding action taken by the bank on its officials who were involved in sanctioning the loan, he submitted that as per his understanding the manager who had sanctioned the said loan was terminated.
 - 15.2 The Committee found that the Complainant's Authorised Representative was not confident in his reply. Hence, the Committee directed the Complainant to submit about the action taken by the bank against its officials with respect to the loan sanctioned by the bank in the instant matter within next 15 days. With this, the hearing in the matter was partly heard and adjourned.
16. On the day of the final hearing held on 10th July, 2023, the Committee noted that Mr Ashok Prasad, Authorised Representative on behalf of the

Complainant Bank was present through Video Conferencing mode and the Respondent was also present from his place through Video Conferencing.

16.1 Thereafter, the Respondent was asked to submit his defence. However, the Respondent has sought adjournment on grounds of non-availability of his Counsel. On which, the Committee mentioned that since the case has already been adjourned several times on his request, and hence it would not be rational to extend further adjournment to him. The Committee further reminded him about non-submissions of documents directed in the meeting held on 29th December 2022. The Respondent had submitted that:

- a. That he had filed the FIR in the case, but the case was still pending, and they were not giving the same in writing to him.
- b. That he had sent an email wherein the said copy of FIR was enclosed
- c. That he had gone to the police station 4 to 5 times for follow-up, but the Inspector was saying the case was pending.

16.2 Thereafter, the Complainant was asked to make his submissions. The Complainant in his submissions had, inter-alia, submitted as under:

- i That the loan was sanctioned on the basis of a fabricated Balance Sheet submitted by the Respondent. The sales figure on Balance Sheet was 20.77 crore but on income tax website the actual sales figure was only Rs. 7.29 crore.
- ii That the then Branch manager was dismissed from the Bank services and other officer involved in the sanction process were also penalized with reduction of their increments.

16.3 The Committee, to provide sufficient opportunity to the Respondent regarding his defence directed him to submit his written submissions, if any within next 10 days.

16.4 Thereafter, the Committee with the above directions decided to conclude the hearing by reserving its judgment.

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CONSIDERATION OF FACTS ON 25TH AUGUST 2023

17 Thereafter, this matter was placed in a hearing held on 25th August 2023 for consideration of the facts and to arrive at a decision by the Committee. The Committee noted that the above case was concluded on 10th July, 2023 with the directions to Respondent to submit further submissions/documents (if any) within the next 10 days. The Committee noted that the Respondent has submitted the required documents vide email dated 3rd August, 2023 wherein he had inter-alia mentioned as under:

- a. As regards to Committee's query as to the current status of the Complaint filed by him in local police station, he enquired the same with the police station from where he got the reply that since the police complaint filed by him was for the fraud committed by an unknown person, hence the complaint was pending for further details at their end and no progress was made yet.
- b. As regards to the Committee's query as to the terminology "Quasi Capital" used in the certificate issued by him, he has submitted that "Quasi Capital" means "Capital and Short Term Loan" as generally understood in the industry. He also produced a definition of "Quasi Capital" given under various dictionaries and law.
- c. He further submitted that the conditions of sanction of cash credit was to introduce Rs 145.42 lacs in FY 2014-15 and he has clearly mentioned the words "Capital and Quasi Capital" in his certificate. Hence, it was the duty of the bank officials to verify the content of the certificate.
- d. He had issued the certificate for general purpose and not specifically for bank loan purpose.
- e. As regards to the Committee's query as to the date of disbursement of the loan, he submitted that the bank had not provided him the dates inspite of his repetitive requests.
- f. Further to prove his stand, he rely upon the following documents submitted by the Complainant which are also on record with ICAI.
 - i. Minutes of 29th meeting
 - ii. Conditions to be complied with before disbursement.

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- iii. Letter by DGM to CM
 - iv. Form I filed by Complainant.
 - v. Declaration/verification of Complainant in Form I.
- g. Since, the exact date of disbursement is not known, hence, the date given in Form I on oath must be considered as correct one which is 09th December 2014, which is prior to the date of the certificate issued to him i.e. 19th December 2014.
- h. Thus, the allegation of the Complainant that the loan had been sanctioned and disbursed on the basis of his certificate was far from fact and utterly wrong.

On perusal of the same it was noted that the Respondent had not brought on record any evidence in his defence and not responded to letters issued by Bank, which clearly shows his connivance with the management and gross negligence in attestation functions.

- 17.1 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

- 18 As regards the **first charge**, related to submission of the fabricated tax audit report and financial statement to the bank, the Committee noted that it was found that as per the Income tax website, sales/ turnover of the NIMC (as prepared by the Respondent) was Rs. 729.01 lacs, whereas, according to the tax audit report submitted to the bank, the same was Rs 2077.57 lacs. There was a material difference of Rs 1348.56 lacs between the actual figure of sales.
- 18.1 The Respondent has submitted that he was not involved in the loan disbursement process and therefore, he did not have the knowledge that the NIMC had submitted financial statements with inflated figures to the bank, and

he became aware of the same only after the receipt of the letter from the Institute.

- 18.2 However, the Committee noted that the Respondent had failed to bring on record any evidence that he had no knowledge of the submission of the fabricated tax audit report with the bank. The Committee further noted that the Complainant bank had sent two letters dated 23rd January 2017 and 10th February 2017 to the Respondent requesting him to give his confirmation on the genuineness of the Tax Audit report of FY 2013-14 conducted by him of the NIMC and also requested to send his audited balance sheet as per his records, however, the Respondent chose not to reply.
- 18.3 It is further noted that the Respondent in his written statement has submitted that he received the aforesaid letters but could not respond due to medical emergency in his family, shifting of his office and he was not answerable to bank requests directly without professional/commercial/legal/ contractual relationship. The Committee noted that the Respondent was well aware of the seriousness of the letters, however, he did not take any step to prove his innocence.
- 18.4 The Committee noted that even if it is assumed that someone else has submitted the forged balance sheet signed by the Respondent, even then he had not filed any FIR against forgery of his signature and stamp used in the financial statement submitted to the bank for availing loan/credit even after having, the knowledge about this fabrication of the documents. Thus, the excuse given by him is not acceptable.
- 18.5 The Committee further noted that as per the submissions of the Respondent, it has come out that one of the parties of forgery is the client of the Respondent. The Committee noted that the Respondent had not filed any FIR against the client in this regard which creates doubt about his professional conduct.

- 18.6 The Committee further noted that the ultimate beneficiary of the credit limit is the client of the Respondent. The Respondent had not filed a complaint against his client on the grounds that the client had given him the affidavit that the client was not involved in the forgery. This clearly proves that the Respondents' conduct is not expected as a professional with his client and the documents produced by the Respondent in his defence is an afterthought.
- 18.7 The Committee on perusal of the certificate dated 19th December 2014 submitted by the Respondent to the bank noted that the stamp of Respondent's firm and his initials on the document is the same when compared with the balance sheet of the NIMC submitted with the Bank.
- 18.8 Hence, this shows the unprofessional approach of the Respondent and his probable connivance with the management in submitting forged balance sheet. Accordingly, the Committee held him **GUILTY** of Professional and Other Misconduct falling within the meaning of Item (7) of Part 1 of the Second Schedule and Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949.
- 19 As regards the **Second charge** related to submission of the false capital infusion certificate dated 19th December 2014, the Committee noted that as per the capital account submitted by Complainant, the total capital of the firm was only Rs. 42.72 lakhs. However, as per the certificate issued by him, he had shown the capital infusion of Rs. 147.23 lakhs thus the certificate is fabricated on the basis of which capital limits were availed by the NIMC.
- 19.1 The Committee on perusal of the certificate noted that the Respondent certified that the NIMC brought in fresh capital and quasi capital of Rs. 1,47,23,100/- as on date from various parties, which was certified based on books of accounts, other records, provisional records and statements produced before the Respondent for verification.
- 19.2 In this connection, it is noted by the Committee that the Respondent had only produced ledger accounts of respective parties from whom the NIMC received

the funds which cannot be treated as an exhaustive document to conclude inflow of fresh capital.

- 19.3 The Committee further noted that the Respondent submitted that Quasi Capital means capital and short-term loan. He further submitted various definitions under various dictionaries and law to establish that the Quasi capital includes debt also. Accordingly, he relates quasi equity with convertible bonds, preferred stock, Mezzanine financing.
- 19.4 The Committee in this regard noted that the work Quasi capital is not a standard practice, and it is not clear as to why the Respondent used this terminology in relation to his client who is a proprietorship concern only. The Committee also noted that the Respondent failed to submit the purpose for which such a certificate was given. The contents of the certificate clearly resemble that this certificate was given to justify capital induction, and this also proves that he was aware that this certificate is required regarding loan availed by the NIMC.
- 19.5 The Committee on perusal of the Form I submitted by the Complainant noted that the date of sanctioning of the loan is 9th December 2014. The Committee noted that the date of the certificate is 19th December 2014, and the chronology of dates clearly establishes the complainant stand (mentioned in Form I) that this certificate is given to fulfill the pre-disbursal condition of infusion of fresh capital.
- 19.6 The Committee further noted that the Respondent had not brought on record any evidence to prove inflow of fresh capital. Further, the contention of the Respondent that he relied on management letter for the issue of the certificate is also not acceptable. The Committee noted that the Respondent did not have adequate evidence in his defence and the Respondent had merely relied on management representation only and had not performed his duties diligently.

19.7 Accordingly, the Committee held the Respondent **GUILTY** of Professional and Other Misconduct falling within the meaning of Item (7) of Part 1 of the Second Schedule and Item (2) of Part IV of the First Schedule to the Chartered Accountants Act, 1949 for this charge too.

CONCLUSION

20 In view of the findings stated in the above paras vis-a-vis material on record, the Committee, in its considered opinion, holds the Respondent **GUILTY** of Professional and Other Misconduct falling within the meaning of Item (7) of Part 1 of the Second Schedule and Item (2) of Part IV of the First 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: 07.02.2024

PLACE: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy
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