



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(Set up by an Act of Parliament)

DISCIPLINARY COMMITTEE [BENCH-III (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-G/341/2019/DD/252/21/DC/1742/2023

In the matter of:

**Shri Asehar Ponraj,
Registrar of Companies,
Office of the Registrar of Companies,
Ministry of Corporate Affairs, GOI
Shastri Bhawan, II Floor, 26, Haddows Road,
Chennai – 600006 (Tamil Nadu)**

...Complainant

Versus

**CA. G Selvaraj (M. No. 204231)
Plot No. 44, Thiruvalluvar Street, Sivakami Nagar,
Near Manamahil Cable TV Office,
Madurai -625007(Tamil Nadu)**

...Respondent

MEMBERS PRESENT:

**CA. Charanjot Singh Nanda, Presiding Officer (Present in Person)
Smt. Anita Kapur, Government Nominee (Present in Person)
Dr. K. Rajeswara Rao, Government Nominee (Present through Video Conferencing Mode)
CA. Piyush S. Chhajed, Member (Present in person)**

Date of Hearing: 2nd May 2024

Date of Order: 31st July, 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 dated 22nd December 2023, the Disciplinary Committee was, inter-alia, of the opinion that **CA. G. Selvaraj (M. No. 204231)** (hereinafter referred to as the "**Respondent**") was **GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

2. The Committee noted that the extant complaint was filed by the Complainant Department based on its enquiry report initiated on the instructions of Ministry of Corporate Affairs when a complaint was received by it from one Mr. M Jagadeesan raising charges with



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

respect to cheating to a tune of Rs. 46 Crore against M/s VJL Dairies LLP. The Respondent was the auditor of M/s VJL Dairies LLP for the financial year 2012-13 and the charge against the Respondent was that he failed to report that the said LLP was accepting deposits from various depositors even though the LLPs were prohibited by the RBI for carrying out financing activities which was in violation of Section 37(b) of the LLP Act, 2008. Further, during the enquiry before the Complainant Department, it was found that an amount of Rs. 1.13 crores was appearing in the Balance Sheet under the head Sundry Creditors whereas the total Balance Sheet size was Rs. 1.17 Crores. The Respondent failed to explain the nature of the said transaction to the Complainant Department.

3. That pursuant to the said findings, an action under Section 21B(3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and a communication was addressed to him thereby granting an opportunity of being heard in person/through video conferencing and to make representation before the Committee on 2nd May 2024.

4. The Committee noted that on the date of hearing held on 2nd May 2024, the Respondent was present through Video Conferencing Mode and made his verbal submissions on the findings of the Disciplinary Committee. The Committee noted that the Respondent had relied upon his earlier submissions dated 11th March 2024 and 29th January 2024 wherein he had, inter-alia, submitted as under:

- a. That at the time of audit there was no interest payments or provision of interest in the books of account which may raise suspicion that the Company might be accepting loans/deposits otherwise he would have reported the same in his audit report.
- b. That there was only one sundry creditor for supply of milk and milk products and he too was a designated partner who has also signed the financials and he retained his funds in the unit as his contribution in the business due to which the same did not raise any skepticism.
- c. He also requested to take a lenient view in the matter.

5. The Committee considered the reasoning as contained in the findings holding the Respondent Guilty of professional misconduct vis-à-vis representation of the Respondent made before it.

6. Keeping in view the facts and circumstances of the case, along with the material on record including representations on the findings, the Committee viewed that the Respondent was grossly negligent in not obtaining any balance confirmation from the single creditor constituting more than 96% of total balance sheet size. As per the Respondent, the same belongs to Mr. Pargasam who is one of the designated partners of LLP and the Balance sheet of the LLP was also confirmed and signed by the same designated partner. However, the Respondent had failed to provide any concrete evidence to support his argument. Even if for the sake of argument it is accepted that the said amount belongs to designated partner and he wants to retain his funds in the unit as his contribution in the business then also the same should be shown under the head Partner's Capital and not as sundry creditor.



भारतीय सनदी लेखाकार संस्थान

(संसदीय अधिनियम द्वारा स्थापित)

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

7. The Committee further observed that the Respondent was duty bound to audit the activities of the LLP identifiable from the books of accounts and also raise query/ objection for any suspected transactions. However, the Respondent had not raised any objection regarding the single creditor for the whole financial year that constitute more than 96% of total balance sheet amount and had contravened the provisions of Section 37(b) of the LLP Act, 2008 by not reporting the financing activities to RBI carried out by the LLP. This conduct of the Respondent establishes Professional Misconduct falling within the meaning of Item (7) of Part 1 of the Second Schedule to the Chartered Accountants Act, 1949.
8. The Professional Misconduct on the part of the Respondent is clearly established as spelt out in the Committee's Findings dated 22nd December 2023 which is to be read in conjunction with the instant Order being passed in the case.
9. The Committee, hence, viewed that the ends of justice will be met if appropriate punishment commensurate with his professional misconduct is given to him.
10. Accordingly, the Committee, upon considering the nature of charge and the gravity of the matter ordered that the name of **CA. G. Selvaraj (M. No. 204231)** be removed from the Register of Members for a period of 1 (one) month.

sd/-

(CA. CHARANJOT SINGH NANDA)
PRESIDING OFFICER

sd/-

(SMT. ANITA KAPUR)
GOVERNMENT NOMINEE

sd/-

(DR. K. RAJESWARA RAO)
GOVERNMENT NOMINEE

sd/-

(CA. PIYUSH S CHHAJED)
MEMBER

DATE: 31ST JULY, 2024

PLACE: NEW DELHI

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

बिष्वा नथ सिखरी / Bishwa Nath Tivari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक विभाग / Disciplinary Directorate
इंस्टिट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीएआई भवन, विभास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vyasas Nagar, Shahdra, Delhi-110032

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2023-24)]
[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

Ref. No.: **[PR-G/341/2019/DD/252/21/DC/1742/2023]**

In the matter of

**Shri Asehar Ponraj,
Registrar of Companies,
Office of the Registrar of Companies,
Ministry of Corporate Affairs, GOI
Shastri Bhawan, II Floor, 26, Haddows Road,
Chennai – 600006 (Tamil Nadu)**

...Complainant

Versus

**CA. G Selvaraj (M. No. 204231)
Plot No. 44, Thiruvalluvar Street, Sivakami Nagar,
Near Manamahil Cable TV Office,
Madurai -625007(Tamil Nadu)**

...Respondent

MEMBERS PRESENT:

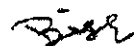
**CA. Aniket Sunil Talati, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
Dr. K Rajeswara Rao, Member (Govt. Nominee)
CA. Piyush S Chhajer, Member**

Date of Final Hearing: 13th September 2023 through Video Conferencing

PARTIES PRESENT:

- (i) Sh. K. Nikhil, Assistant ROC, Chennai (The Complainant's Representative)
(Appeared from personal location through Video Conferencing)

v



Charges in brief:

1. The Committee noted that in the Prima Facie Opinion formed by Director (Discipline) in terms of Rule 9 of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Respondent was held prima facie guilty of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949. Item (7) of Part I of Second Schedule state as under:-

Part I of Second Schedule:

Professional misconduct in relation to chartered accountants in practice

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"

Brief Background

2. In the extant case, it was stated that M/s. VJL Dairies LLP (hereinafter referred to as "the LLP") was accepting public deposits from various depositors despite the fact that LLPs were prohibited by RBI for carrying out financing activities and that the Respondent, being auditor of the LLP for the financial year 2012-13, failed to report the same which was in violation of Section 37(b) of the LLP Act, 2008 that read as under:

Section 37 (b) — *"If in any return, statement or other document required by or for the purposes of any of the provisions of this Act, any person makes a statement—*

(a)

(b) which omits any material fact knowing it to be material,

he shall, save as otherwise expressly provided in this Act, be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine which may extend to five lakh rupees but which shall not be less than one lakh rupees."

Accordingly, it was alleged that the Respondent had failed to discharge his professional duties diligently while carrying out the audit of LLP.

BRR

Proceedings

3. During the hearing held on 13th September, 2023, the Committee noted that the Complainant's Representative was present before it through video conferencing. The Committee noted that the Respondent vide email dated 11th September 2023 expressed his inability to attend the hearing due to his health condition and requested the Committee to consider his submissions before concluding the matter. Thereafter, the Committee decided to proceed ahead and asked the Complainant to make submissions in the matter. The Committee examined the Complainant based on the facts and documents placed on record.

Based on the documents available on record and after considering the oral and/or written submissions of the parties concerned, the Committee concluded hearing in the matter.

Findings of the Committee:

4. At the outset, it was noted that the extant complaint was filed by the Complainant Department based on its enquiry report initiated on the instructions of Ministry of Corporate affairs when a complaint was received by it from Mr. M Jagadeesan raising charges with respect to fraudulent cheating to a tune of Rs. 46 Crore (C-4) against the VJL Dairies LLP. It was noted that to support his claim he had also produced copy of subscription receipts/ Certificates issued in his name as well as in the name of others (C-11 to C-20, C-32 to C-33 and C-46 to C-48) by the said LLP. Accordingly, during the enquiry, the Complainant department had sought explanation from the Respondent, being auditor of the alleged LLP regarding the deposits and in the absence of any information regarding the same sought explanation from the Respondent about the nature of Sundry Creditors shown at Rs. 1.13 crore (C-49 & C-50) in the financial statements of alleged period. It was stated that Mr. M Jagadeesan had deposited money in the bank account of LLP Account No. 342020100022 maintained with Canara Bank under recurring deposit, fixed deposit with insurance coverage from the year 2010 onwards. The verification of the cash receipts in the bank statements and cash book name would revealed the acceptance of deposits. Accordingly, the complaint was filed with the Institute.

It was noted that in the extant case, it was alleged against the Respondent that being auditor of M/s. VJL Dairies LLP for the financial year 2012-13, he failed to report about VJL Dairies LLP accepting deposits from various depositors even though the LLPs were prohibited by RBI for carrying out financing activities. Hence, he contravened the provision of Section 37 (b) of LLP Act 2008 by omitting this material fact knowing it to be material (C-2 & C-3).

Bissh

- 4.1 It was noted that the Respondent had in his defense, inter-alia, submitted that in the books of accounts provided by the management of the LLP, there was neither payment of interest nor provision for payment of interest on the alleged deposits and also those alleged deposits were not shown as unsecured loans. That the alleged deposits were neither appearing in the books of accounts anywhere nor any copy of fixed deposits receipts had been provided to him at the time of audit of books of accounts. That he could not find any records/ receipts in the bank statement or cash book of the LLP. He further argued that the scope of audit was limited to books of accounts only and that he was not in the position to conduct investigation beyond the books of accounts. He also pointed out that the audit report was prepared to give opinion on the books of accounts provided by the client only. In case, if the LLP had collected the amount and issued the fixed deposit receipts out of books of account, he had no reason to suspect of alleged deposit receipts. Hence the question for verification of deposit receipts or reporting of acceptance of deposits from the public did not arise.
- 4.2 It was further noted that the Respondent in his submissions dated 15th June 2023 and 7th September 2023, stated with respect to details of Sundry Creditors as shown in the financial statements of the LLP that Sh. Pragasam, the designated partner of LLP, was the only Sundry Creditor of the firm who had supplied the milk and milk products to the firm. He was also in this milk trading business earlier which was continued by VJL Dairies LLP. So, he supplied milk on credit to the LLP and retained funds in the form of creditors in the business. Since the Balance sheet of the LLP was also confirmed and signed by the same designated partner, obtaining the balance confirmation was not insisted upon. As regards providing the documents like bank statements and cash ledger, the Respondent stated that the period for which the audit was conducted was almost 10 years back, hence, he did not retain such documents with him. The Respondent, finally, stated that he had carried out the audit with due diligence by adopting adequate standard procedures. That the information which was not available with him at the time of audit was not reported in his audit report.
5. The Complainant in his rejoinder reiterated his submissions that it was the responsibility of the Auditor, i.e., the Respondent, to verify independently and to ensure that the LLP had not accepted any deposits and report the same to Reserve Bank of India, without depending on the client to submit relevant information. Any exception in this regard should have been directly reported by him to RBI which the Respondent had failed to do.
6. On perusal of aforesaid documents, it is seen that an amount of Rs. 1.13 crore is appearing in the balance sheet under Sundry Creditors (C-55) out of the total balance sheet size of Rs. 1.17 cr, however the nature of the same is not evident from any schedule or Notes to accounts annexed to the financial statements. As per the Respondent, it was the designated partner of

Bisw

LLP who was the sole creditor, and the said amount was payable to him. However, it was noted that the Respondent had failed to provide any evidence to support the said argument. It was noted that he neither produced any management representation letter to show that the said amount of 'Sundry Creditors' belonged to Mr Pragasam, the designated partner or that information about deposits was concealed from him. It was incomprehensive to understand that when there was a single material supplier (also the designated partner of the LLP) which constituted more than 96% of the balance sheet size, still the Respondent had not raised any query with the management of the LLP and relied upon the information provided to him. It was noted that the Respondent had failed to prove his defence through any evidence as he did not produce any of his working papers pertaining to sundry creditors or third-party confirmations, bank statement, cash book, etc. to substantiate his defence. With respect to his plea that the audit was conducted 10 years back, so he did not retain any document, it was noted that the extant matter pertained to FY 12-13 for which audit report was issued on 1st July 2013 and that the Complainant Department had raised their query to the Respondent with respect to allegation made in February 2019 (C-49). Hence, the Respondent was aware of the fact that the alleged audit was being questioned before the lapse of seven years as prescribed for retention of audit documentation under Standard on Auditing (SA) 230, Audit Documentation. Hence, the Respondent's plea with respect to his inability to produce audit related papers could not be accepted.

- 6.1 The Committee noted that while performing an audit of financial statements, the auditor is expected to obtain the sufficient and appropriate knowledge of the business and compliances of various laws applicable on that business to enable himself to identify and understand the events, transactions and practices that might have significant effect on the financial statements of the business. The Committee noted that the Respondent was duty bound to audit the activities of the LLP identifiable from the books of accounts and also raised query/ objection for any suspected transactions. The Committee noted that the Respondent had not raised any objection regarding the single creditor for the whole financial year that constitute more than 90% of total balance sheet amount. Thus, the Committee opined that the Respondent failed to exercise due diligence in exercise of his duties.
7. In light of the above, it was viewed that the Respondent had contravened the provisions of Section 37(b) of the LLP Act, 2008 while conducting the audit of the LLP by not reporting the financing activities to RBI carried out by the LLP. Upon overall examination of facts and keeping in view the submissions of the parties and documents brought on record, the Respondent was held Guilty of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.

✓

[Handwritten Signature]

Conclusion:

8. Thus, in conclusion, in the considered opinion of the Committee, the Respondent is GUILTY of Professional Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule to the Chartered Accountants Act, 1949.

3/

Sd/-

[CA. Aniket Sunil Talati]
Presiding Officer

Sd/-

[Smt. Anita Kapur]
Member (Govt. Nominee)

Sd/-

[Dr. K. Rajeswara Rao]
Member (Govt. Nominee)

Sd/-

[CA.Piyush S Chhajed]
Member

Date: 22nd December, 2023

Place: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

बिष्वा नाथ तिवारी / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासनात्मक निदेशालय / Disciplinary Directorate
इंस्टीट्यूट 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