



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/105/15-DD/111/2015-DC/797/2018

In the matter of:

Shri V. Ganesan,
DGM (ARD), Catholic Syrian Bank
Head office, CSB Bhavan,
St. Mary's College Road,
Thrissur - 680020

.....Complainant

Versus

CA P. Ramalingam (M.No. 019516)
No. 57, Pandian Nagar,
4th Street
Dindigul-624001

.....Respondent

MEMBERS PRESENT:

CA. Charanjot Singh Nanda, Presiding Officer
Smt. Anita Kapur, Government Nominee
Dr. K. Rajeswara Rao, Government Nominee
CA. Sushil Kumar Goyal, Member
CA. Piyush S. Chhajed, Member

The following party was also present:

- (i) Advocate, B. Ramana Kumar – Counsel for the Respondent (appeared through video conferencing from his personal location)

Date of Hearing: 25th June 2024

Date of Decision taken: 18th July 2024

Date of Order: 24th October, 2024



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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 10th February 2020, the Disciplinary Committee was, inter-alia, of the opinion that **CA. P. Ramalingam (M. No. 019516)** (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 brief facts of the case are that the Respondent had signed the balance sheet alongwith Form 3CB and 3CD in respect of the proprietary firm namely M/s Iswari Spinning Mills, Dindigul (hereinafter referred to as 'the firm') for the Financial year 2012-13 on 28.09.2013 and the financials were dated 12.07.2013. The Complainant bank had lent a sum of Rs. 45.80 crores against the hypothecation of stocks/book debts under the C.C. limit. to the firm. Thereafter, the stock audit was conducted by the Complainant bank in the year 2014-15 which reflected the non-existence of stock. On being questioned by the Bank, the Respondent submitted another set of the Financial statements to the Complainant Bank. The Complainant Bank noticed discrepancy in both sets of financial statements.

3. Accordingly, the Complainant Bank had raised following two charges against the Respondent:

- a. The Respondent knowing the fact that stocks did not exist, certified the balance sheet of the firm with inflated stocks that resulted in serious erosion to the Complainant bank's security value thereby resulting in financial loss to the bank.
- b. That the balance sheet submitted to the bank at the time of sanction/renewal i.e. while giving his opinion on 30.09.2013 is different from the one which is submitted to the bank when the Complainant Bank questioned the Respondent after the stock audit.

4. 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 or through his authorised representative and to make representation before the Committee on 25th June 2024.

5. The Committee noted that on the date of the hearing held on 25th June 2024, the Respondent was not present for the hearing. However, his Counsel had appeared through Video Conferencing for hearing. The Committee noted that Hon'ble Madras High Court (Madurai Bench) in the matter of P. Ramalingam Vs. The Institute of Chartered Accountants of India vide order dated 5th October 2023 allowed the Respondent to be



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represented through an authorized representative considering his age of 72 years. Accordingly, the Committee in the extant matter permitted the Respondent to be represented through his Counsel. The Committee noted that the Counsel for the Respondent in his oral submissions relied on earlier written representations filed by/ on behalf of the Respondent. The Committee noted that apart from the same, the Counsel for the Respondent had nothing further to say on merits on the findings of the Committee. Upon consideration of the facts and circumstances of the case and after due deliberations on the Report, the Committee decided to reserve its order in the matter. Thereafter, this matter was placed for decision in the meeting held on 18th July 2024.

6. The Committee noted that the Counsel for the Respondent in his oral submissions relied on earlier written representations dated 11th June 2024 and 18th June 2024 filed by/ on behalf of the Respondent wherein he inter-alia stated as under:

- a) That the two balance sheets necessarily contains differential figures, as the constituting figures are relating, one to the full balance Sheet of the concern as a whole and the other is exclusively for the Head office alone (segment wise working sheet). Hence these documents cannot be compared as a single document.
- b) That the 'Consolidated Balance Sheet' and 'Segment wise working sheet' were provided only based on the request of the client for his internal purpose and there was no intention to make use of it for availing any additional loan or advance from any financial institution.
- c) In fact, the loan was availed by the client, much ahead of the date of the documents and during that period of availing the loan, he has not issued any document of any nature.
- d) That the even after the Balance sheet was issued by him for FY 2012-13, another Balance Sheet was issued for 2013-14 by another Chartered Accountant, i.e. CA. M. Balasubramaniam and based on the strength of the Balance sheet so issued for 2013-14, the loans were renewed, without any objection or scrutiny.
- e) That no official appointment letter was ever issued by the said Bank, for engaging him for conducting the tax audit of the Company, at any point of time. Thus, as concluded by the Appellate Authority in its order in the similar case of the Complainant vs. M. Balasubramaniam, there was no privity of contract existing, between him and the concerned Bank. Hence as per the ratio of order of the Appellate Authority, the ongoing enquiry proceedings, before the Disciplinary Committee, should be dropped fully and finally, by rejecting the complaint in toto.
- f) The day to day verification of the physical stock has to be done by the Bankers only at periodical visits and inspection. The same is not within the domain of the Chartered Accountant. The Chartered Accountant issuing the certificate would rely upon only on the books of stock and other materials provided to him and on the strength of the same.



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7. The Committee, with regard to submission of the Counsel for the Respondent that the reason for the difference is that one of the balance sheets is for the head office alone and the next balance sheet is for the entire concern, noted that nothing was mentioned by the Respondent on the face of the balance sheet to establish his submission regarding another set relating to segment of business (i.e. Head Office). It is also noted that as per the Respondent, Balance sheet submitted earlier is for the entire concern and the subsequent is for head office alone however, on perusal of balance sheets it is observed that balance of cash in hand in balance sheet of head office was Rs. 16,90,623.95 whereas amount of cash in hand in the balance sheet of entire concern was Rs. 66,420.00, which means certain other remaining segments of business were having negative cash balance which is practically not possible.

8. The Committee further noted that the stock constitutes 64% of total assets and the Respondent with regard to its valuation had merely relied on the assessee. It was further noted by the Committee that stock in trade figures amounting to approx. Rs.51.88 crores are same but there is a difference in the total of Rs.21 crores (approx.) in the two balance sheets. The total of one balance sheet amounts to Rs. 101,09,62,656/- whereas total of another balance sheet was Rs.80,48,46,211/-. The Committee further noted that there was difference of Rs.18 crores and 1.22 (approx.) in the figures of unsecured loan and sundry debtors in both the balance sheets.

9. The Committee accordingly noted that the Respondent failed to exercise due diligence in conduct of his professional duties and conduct of the Respondent constitutes Professional Misconduct as per Item (7) of Part 1 of the Second Schedule to the Chartered Accountants Act, 1949.

10. As regards submission of Counsel for the Respondent regarding similarity of case, the Committee noted that the facts of present matter were different from the case referred by the Counsel for the Respondent as in the present matter the Respondent had signed two different sets of financials containing different figures. Hence, the plea of the Counsel for the Respondent is not maintainable.

11. The professional misconduct on the part of the Respondent is clearly established as spelt out in the Committee's findings dated 10th February 2020 which is to be read in conjunction with the instant Order being passed in the case.

12. The Committee, hence, viewed that the ends of justice will be met if appropriate punishment commensurate with his professional misconduct is given to him.

13. Accordingly, the Committee, upon considering the nature of charge and the gravity of the matter ordered that the name of CA. P. Ramalingam (M. No. 019516) be removed from Register of Members for a period of 6 (six) months and a fine of 8/



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Rs.50,000/- (Rupees Fifty Thousand only) be imposed upon him, to be paid within 90 days of the receipt of the order and in case of failure in payment of fine as stipulated, the name of the Respondent be removed for a further period of 1 month from the Register of Members.

Sd/-

(CA. CHARANJOT SINGH NANDA)

PRESIDING OFFICER

Sd/-

**(SMT. ANITA KAPUR)
GOVERNMENT NOMINEE**

Sd/-

**(DR. K. RAJESWARA RAO)
GOVERNMENT NOMINEE**

Sd/-

**(CA. SUSHIL KUMAR GOYAL)
MEMBER**

Sd/-

**(CA. PIYUSH S CHHAJED)
MEMBER**

DATE: 24th October, 2024

PLACE: New Delhi

सही प्रतिलिपि होने के लिए प्रमाणित
Certified to be true copy

गीता अनिरुद्धा कुमार / GEETHA ANIRUDHA KUMAR
कार्यकारी अधिकारी / Executive Officer
अनुशासन-मूलक विभाग / Disciplinary Jurisdiction
भारतीय सनदी लेखाकार संस्थान
The Institute of Chartered Accountants of India
आइसीआई भवन, विश्वास नगर, श्यामा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shyama, Delhi-110032

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – II (2019-2020)]

[Constituted under Section 21B of the Chartered Accountants (Amendment) 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-105/15-DD/111/2015]-DC/797/2018]

In the matter of:

Shri V. Ganesan,
DGM (ARD), Catholic Syrian Bank
Head office, CSB Bhavan,
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.....Complainant

Versus

CA P. Ramalingam(M.No. 019516)
No. 57, Pandian Nagar,
4th Street
Dindigul-624001

.....Respondent

MEMBERS PRESENT:

CA. Amarjit Chopra, Government Nominee [Presiding Officer]

CA. Rajendra Kumar P., Member

CA. Chandrashekhar Vasant Chitale, Member

DATE OF FINAL HEARING : 30.07.2019

PLACE OF FINAL HEARING : ICAI Bhawan, Chennai

PARTIES PRESENT:

Complainant : Shri V. Ganesan, DGM (AGM),
Catholic Syrian Bank, Thrissur

Counsel for Respondent : Shri Selve Tirumurugan, Advocate

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 is guilty under Clause (7) of Part I of the Second Schedule of Chartered Accountant Act 1949. The said Clause (7) of Part I of Second Schedule states as under:-
"(7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;"
2. This is a Complainant filed by the Shri V. Ganesan, DGM (ARD), Catholic Syrian Bank against CA P. Ramalingam. The Complainant alleged that the Respondent had signed the balance sheet and Form 3CB and 3CD in respect of the proprietary firm namely M/s Iswari Spinning Mills, Dindigul. The Complainant bank had lent a sum of Rs. 45.80 crores against the hypothecation of stocks/book debts under the C.C. limit. Further, it is noted that the stock audit was conducted by the Complainant bank in the year 2014-15 which reflected the non-existence of stock. There are following two allegations from the Complainant which are stated as follows:-
 - i. The Complainant has alleged that the Respondent knowing the fact that stocks did not exist, certified the balance sheet of the Entity with inflated stocks that have resulted in serious erosion to the Complainant bank's security value thereby resulting in a financial loss to the bank.
 - ii. the Complainant has stated that the balance sheet submitted to the bank at the time of sanction/renewal i.e. while giving his opinion on 30.09.2013 (C-45 to C-47 of PFO) certified by is different from the one which is submitted to the bank when the Complainant Bank questioned the Respondent after the stock audit and he has submitted fresh balance sheet as on 31.03.2013 which was different from the one submitted earlier.

Brief facts of the Proceedings

3. On the date of the hearing i.e. 30/07/2019, the Committee noted that the Complainant was present. The Respondent's Counsel was present and appeared before it. The

annexed as 'C-59' of Prima Facie Opinion totalling to Rs101,09,62,656/- whereas balance sheet annexed as page 'C-46' duly signed total as Rs.80,48,46,211/-.

8. The Committee also raises serious doubt on various figures mentioned in both balance sheets. The Committee asked for clarification about difference in the unsecured loan figures in both the balance sheet wherein the difference was of Rs.18 crores (Rs. 20,00,00,000/- as on Page C-59 and Rs.2,00,00,000/- as on Page C-45 of PFO) and also Debtors which is Rs.4,27,84,831.53/- as on page C-59 and Rs.3,06,01,276.79/- as on page C-46 of PFO. The Counsel for the Respondent submits that the reason for the difference is that one of the balance sheets is for the head office alone and the next balance sheet is for the entire concern. The Committee also noted that no such specific mentioned on the balance sheet about the head office or the entire concern was mentioned by the Respondent. The Committee further draws reference from Page C-46 and C-59 of PFO wherein the Balance sheet date is the same i.e. 12.07.2013 on both the balance sheets.
9. On perusal of the documents placed on record the Committee noted that on the face of the report, the Respondent states that all books of accounts were maintained and he has received all information. Moreover, it is noted that in the extant case, in profit & loss account, change in inventories (i.e. Rs. 51,88,83,004 -Rs. 47,90,32,788/-) constitutes 49% of gross profit and 37 % of net profit and closing inventory constitutes 64% of total assets. Hence, the non-existence of stock records was a lapse in records made by the Respondent as Tax Auditor which he omitted to report in Form 3CB. Hence holds him guilty of the first charge.
10. The Committee noted that with regards to the second charge there is no mention of the words such as 'Consolidated' and/or 'Segment-wise' on the face of different sets of Balance Sheets and Profit & Loss Accounts issued by the Respondent (C-45 to C-55 and C-57 to C-62 of PFO). Also, there were no documentary shreds of evidence brought on record by the Respondent's Counsel to show that there was any such requirement expressed by the proprietary concern to issue two different sets of financials as claimed by the Respondent. On the second set of balance sheet and profit & loss account, he does not specify that the enclosed statement was split-up division-wise or the same pertaining to the head office only. The Committee holds him guilty for this charge.

Complainant was put on oath and directed to open the charges against the Respondent. On being enquired by the Committee, the Respondent's Counsel pleaded not guilty and wish to defend the charges. The Committee directed him to make his submissions. The Respondent's Counsel for the Respondent made submissions. Thereafter recording the submissions, the Committee concluded the hearing.

Findings of the Committee

4. The Committee noted the submissions made by the Complainant wherein he stated that the Respondent had submitted two audited balance sheets of the proprietary concern namely M/s Iswari Spinning Mills, Dindigul which is on record. Both the balance sheets are not matching and there were a lot of differences in both the balance sheets for which the Respondent had not produced the originals of the same.
5. The Committee enquired from the Complainant that whether their manager or bank's official visited the account borrower's premises and found any discrepancies which might exist in stock? The Complainant in reply submits that the officials made periodical visits and no suspicion arose as the account was regular and there was no issue in operations. The Complainant also submitted that their personnel did not possess relevant expertise and hence they were appointing professionals for the Stock Audit.
6. The Committee noted that on Page 'C-40 of PFO', Para 28 (b) wherein it is mentioned that "NO DAY TO DAY STOCK BOOK IS MAINTAINED VALUATION OF OPENING AND CLOSING STOCK IS BASED ON THE STOCK INVENTORY TAKEN BY THE ASSESSEE AS ON 31.03.2013." The Committee raised doubt on the part of the complainant bank official that wherein the tax audit report mentioned above fact then also this should raise an alarm on the part of the bank to raise a doubt in their mind against the stock statement which was not maintained by the firm. The Complainant submits that periodically stock statement was submitted by the firm to the bank. It was noted by the Committee that no stock statement is maintained and stock was not physically verified yet every month the stock statement was submitted to the bank.
7. The Committee further noted that stock in trade figures are the same amounting to Rs.51.8crores but there is a difference in the total of Rs.21 crores in the two balance sheets. As to substantiate the above, attention was drawn to the balance sheet

Conclusion

11. In view of the above findings, and reasoning as stated above, the Committee is of the considered opinion, that the Respondent is **GUILTY** under Clause (7) of Part I of the Second Schedule of Chartered Accountant Act 1949.

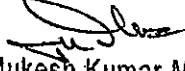
**Sd/-
(CA. AMARJIT CHOPRA)
GOVERNMENT NOMINEE
PRESIDING OFFICER**

**Sd/-
(CA. RAJENDRA KUMAR P)
MEMBER**

**Sd/-
(CA. CHANDRASEKHAR V. CHITALE)
MEMBER**

**DATE: 10.02.2020
PLACE: New Delhi**

Certified True Copy


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