



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/215/2021/DD/231/2021/DC/1658/2022

In the matter of:

Shri N Surendran,
Head of Internal Audit,
Tamil Nadu Mercantile Bank Ltd., Thoothukdi,
56 & 57, Beach Road,
Thoothukdi - 628001

.....Complainant

Versus

CA. Tirumavalavan CK (M.No. 204906)
Proprietor, M/s Rajendra Valavan Associates,
Chartered Accountants,
No. 137H, NS Complex,
First Floor, Sathy Main Road,
Sravanampatti,
Coimbatore - 641035

.....Respondent

MEMBERS PRESENT:

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

Date of Hearing: 18th July 2024

Date of Order: 24th October, 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. CK Tirumavalavan (M. No. 204906)** (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. That charge against the Respondent was that he had not performed his professional duty with due diligence as a concurrent auditor of the Tamil Nadu Mercantile Bank,

[Signature]



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Coimbatore Main Branch (016) (hereinafter referred to as '**the Complainant Bank**'/ '**the Bank**') as he had failed to verify the transactions from February, 2013 to November, 2013 through vouchers with the day books which came into light after an inspection conducted in 2019 by the Inspection Department of the Bank.

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 18th July 2024.

4. The Committee noted that on the date of the hearing held on 18th July 2024, the Respondent was not present. The Committee noted that, during earlier hearings held on 2nd May 2024 and 25th June 2024, the Respondent had sought an adjournment on the grounds of his son's marriage/family circumstances. The Committee also noted that in the previous hearing held on 25th June 2024, the Respondent was advised to appear before the Committee at the next date of hearing and in case he fails to appear, the Committee would proceed further based on the documents/ information already available on record. Hence, looking into the absence of the Respondent, the Committee decided to proceed ahead on the basis of documents and submissions on record. The Committee noted that the Respondent vide his written representation dated 30th April 2024 on the findings of the Committee had inter-alia stated as under:

- a) The proceedings were initiated after lapse of 7 years and since he has no documents available as the period related is more than 7 years old hence he was allowed to inspect the alleged transactions with reference to relevant vouchers. He further contended that the instant complaint was filed after lapse of two years of special audit report which was dated 03.04.2019.
- b) That he required information regarding action taken on audits conducted after 30.06.2014.
- c) That Bank was raided for statutory transactions to be disclosed to Income Tax Department in 2023. This shows that bank has been in habit of hiding details. System Breakdown was also found in savings bank account where the bank had transferred crores of rupees in the same year 2023. From the same situation in 2013 could be examined.

5. Keeping in view the facts and circumstances of the case, along with the material on record, the Committee noted that as per the format of concurrent audit report brought on record by the Complainant, the Respondent, being concurrent auditor, had accepted to undertake to check/ verify all the nature of transactions that took place in the branch which led to a wide responsibility and such verification also included transfer of funds between accounts based at the same branch. It was viewed that no-doubt that being main branch there would be voluminous transactions that would be taking place leading to voluminous verification responsibility, however, considering the terms of his appointment as well as the framework of audit as reflected from the Format of concurrent audit, he was required to report on unauthorized debit/ credit inter-sol transactions too and the Respondent failed to do the same. It was, accordingly, viewed that the Respondent was grossly negligent in the



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performance of his professional duties. It was viewed that as per terms of his appointment, he was required to conduct concurrent audit independently and cover internal checking of all the transactions including verification of the said nature of entries. He could not escape from his responsibility by pointing lapses on other functions who could have also revealed the said defect. It was viewed that in case the Respondent had reported the said lapse in respect of any account, the Complainant Bank would have taken timely corrective measure and the said fraud could be avoided. Thus, the Committee observed that the Respondent had not performed his professional duty with due diligence and accordingly, the Respondent was held Guilty for Misconduct within the meaning of Item (7) of Part 1 of the Second Schedule to the Chartered Accountants Act, 1949.

6. 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.

7. The Committee further noted that with respect to audit period of the Respondent, the Complainant Bank had pointed out only 5 transactions and the amount involved was not material i.e. around Rs. 8 lakhs only. Considering the said aspects, the Committee noted that the task of concurrent audit involves cumbersome procedures and day to day supervision which may pose difficulties for any professional.

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

9. Accordingly, the Committee, upon considering the nature of charge and the nature of default ordered that the CA. CK Tirumavalavan (M. No. 204906) be reprimanded and a fine of Rs. 20,000/- (Rupees Twenty 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 period of 30 days 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. 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-विभाग / Discipline Directorate
भारतीय सनदी लेखाकार संस्थान
The Institute of Chartered Accountants of India
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ICAI Building, Netaji Park, New Delhi, 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/215/2021/DD/231/2021/DC/1658/2022]

In the matter of

Shri N Surendran,
Head of Internal Audit,
Tamil Nadu Mercantile Bank Ltd., Thoothukdi,
56 & 57, Beach Road,
Thoothukdi - 628001

.....Complainant

Versus

CA. Tirumavalavan CK (M.NO. 204906)
Proprietor, M/s Rajendra Valavan Associates,
Chartered Accountants,
No. 137H, NS Complex,
First Floor, Sathy Main Road,
Sravanampatti, Coimbatore - 641035

.....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
CA. Sushil Kumar Goyal, Member

Date of Final Hearing: 23rd October 2023

PARTIES PRESENT

- (i) Shri N Surendran, DGM. Complainant Bank – the Complainant
- (ii) Shri S Sethuraman, Advocate – Counsel for the Complainant

(Appeared from their respective personal location through videoconferencing)

✓

R/S

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, Second Schedule to the Chartered Accountants Act, 1949. Item (7) of Part I, Second Schedule states as under: -

Part I of Second Schedule:

PART I: 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"

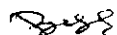
Brief background and the allegations against the Respondent

2. In the extant case, it was alleged that the Respondent, being a Concurrent Auditor of the Tamil Nadu Mercantile Bank, Coimbatore Main Branch (016) (hereinafter referred to as '**the Complainant Bank**'/ '**the Bank**') appointed for the period 1st July, 2011 to 30th June, 2014 had failed to verify the day-to-day vouchers with the day books on the daily basis and serious irregularities occurred due to non-scrutiny of vouchers which came into light after an inspection conducted during the year 2019 by the Inspection Department of the Bank.

Proceedings

3. During the hearing held on 23rd October 2023, the Committee noted that the Complainant along with his Counsel appeared before it from their respective locations. However, the Respondent vide his email dated 18th October 2023, informed about his non-appearance before the Committee and provided his submissions in the matter. The Committee noted that the matter was part heard. During the previous hearing held on 6th September, 2023, the Counsel for the Complainant requested the Committee to allow them to bring on record certain other documents in support of their allegations to which the Committee acceded to. Accordingly, the Complainant had submitted certain further documents.

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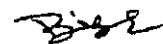
The Committee, thereafter, asked the Counsel for the Complainant to make any further submissions. The Complainant and thereafter the Counsel for the Complainant made submissions in the matter. Based on submissions made, the Committee sought clarifications. Thereafter, the Counsel for the Complainant made final submissions. Based on submissions made by both parties, the Committee directed the Complainant to provide Format of Concurrent Audit Report or any other document whereby the Respondent of the extant matter, being concurrent auditor of Coimbatore Main Branch of alleged period, had responsibility to verify 100% of daily vouchers pertaining to the nature of alleged transactions. The Counsel for the Complainant sought an opportunity to submit final submissions made before the Committee to which the Committee agreed. Accordingly, the Committee directed the Complainant to make further written submissions, if any along with documentary evidences as sought within next 7 days. Accordingly, hearing in the matter was concluded and decision on the matter was reserved.

3.1 On 21st November 2023, the Committee considered the documents and information available on record, oral and written submissions made by both parties, and upon consideration of the facts and circumstances of the case, decided the matter.

Findings of the Committee

4. At the outset, the Committee noted that the Respondent had pleaded on the grounds of absence of records with the Respondent firm. He pointed out a similar situation at the end of the Complainant Banks who brought on record only one Concurrent Audit Report of November 2013 though he had conducted audit from 1st July 2011 to 30th June 2014. As per him, extant proceeding was initiated after lapse of 7 years as the complaint was lodged with the Director (Discipline) only on 12.07.2021 whereas the audit period ended on 30.06.2014. He contended that since the bank had only one record i.e. Concurrent Audit Report of November 2013, therefore as per him, the period of 7 years be considered from 01.12.2013 and that the said proceeding be dropped on this ground. It was noted that the allegations raised against the Respondent pertained to five transactions in relation to transfer of funds that took place from February 2013 to November 2013. It was further noted Special Audit, wherein said discrepancies were reported, was conducted in March 2019, its report dated April 2019 was supplied by the Complainant Bank to the Respondent Firm in July 2019 (C-4). Hence, the Respondent was well aware the said charges in 2019 i.e. before the lapse of seven years from the period when the alleged audit was conducted. It was noted that the Standard of Auditing -230 'Audit Documentation' read with 'Standard on Quality Control (SQC)-1' states that the minimum period of retention of engagement documentation as seven years from the date of the auditor's report. However, it was noted that the Respondent vide undated letter received by the Bank on 1st August, 2019 (C-6) had intimated the Bank

2



about not possessing the reports physically or in system. Therefore, the plea of the Respondent regarding absence of records or expressing his inability to lead evidence in his defense could not be accepted. He was duty bound to retain documents of alleged audit for a minimum period of 7 years i.e. till 2020. However, the same was not available even in 2019. Hence, the said plea was not maintainable. Accordingly, the Committee decided to proceed on merits.

5. It was noted that in extant matter it was alleged against the Respondent that being the Concurrent Auditor of the Tamil Nadu Mercantile Bank, Coimbatore Main Branch (016) for the period 1st July, 2011 to 30th June, 2014, he had failed to verify the following transactions held from February, 2013 to November, 2013 (D-95) through vouchers with the day books which came into light after an inspection conducted in 2019 by the Inspection Department of the Bank as reported below in its Report:

"IV Transactions in the individual account of Director Mrs. N. Leelavathy W/O. Mr.C. Natarajan"

"Funds transfers made to Company/Group concerns from the individual account of Director Mrs. N. Leelavathy"

S. N.	Date	To Account/Name	Cheque No.	Amount	Entered by Name & No.	Verified by Name & No.
1.	07/02/2013	016700150950309 M/s SDSPL	without cheque	7,000	V. Venakata Su 4414	V. Santhi 1782
2.	11/03/2013	016700150950309 M/s SDSPL	without cheque	80,581	S. Gowri 1724	S. Subramanian 524
3	29/04/2013	016700150950309 M/s SDSPL	without cheque	4,12,000	V. Venakata Su 4414	P. Senthilkumaran 1577
4.	17/06/2013	016700150950309 M/s SDSPL	without cheque	1,35,000	V. Venakata Su 4414	P. Sureshkumar 292
5	14/11/2013	016700150950309 M/s SDSPL	without cheque	1,32,000	S. Chitra 3452	P. Senthilkumaran 1577

In this regard, the following observations were also noted to have been given in such Report (D-82 & 83):

"2. The Directors of M/s Shri. Dhanalakshmi Spinnitex Private Limited have routed business transactions related to the Company and Group concern through their individual

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accounts and also through the account of their staff Mr. C.Vivek Kumar, His wife Mrs Kalaivani and Company General Manager Mr. K.K. Kannan”

“5. Branch Staff / Officers have not insisted for confirmation cheques for the fund transfers made from the accounts of the Company, Group concerns and director individual accounts to the accounts of the company staff Mr. C. Vivek Kumar and other accounts on various dates.”

“11. Concurrent Auditor is not being verified the Daily vouchers with the Day Book (Cash Book & Transfer Book) which defeats the very purpose of the Concurrent Audit for Real Time verification of Daily Transactions and other operations at the Branch level.”

From the above, it was noted that certain funds have been transferred among the accounts of the Company, Group concern, individual accounts associated with the Company being director, its staff or relatives thereof. Certain funds were transferred without obtaining cheques.

6. It was noted that the Bank had extended various credit facilities to M/s Shri. Dhanalakshmi Spinnitex Private Limited represented by its Managing Director Mr. C Natrajan, and Mrs. N. Leelavathy and N Navanya (his wife and daughter respectively) being directors of the Company. Whereas the Managing Director alleged about fraud being committed in the account of the Company held in the Bank by its staff in connivance with the staff of the Bank, the Complainant Bank alleged that it was the borrowers and their allied persons who conducted fraud together. It was noted that in the extant matter allegations were made against the Respondent for non-verification of five entries that took place from Feb 2013 to Nov 2013. It was observed from the details of the transactions reported in the Report that this non-verification of entries continued in subsequent years despite changes in concurrent auditors for which separate complaints had been raised by the Complainant. It was noted that in extant case, all alleged entries pertained to fund transferred from the account of Mrs. N. Leelavathy, Director of the Company to the account of M/s Shri. Dhanalakshmi Spinnitex Private Limited- the Company itself. The Complainant Bank has brought on record the screenshots of the alleged transactions providing evidence of transactions that were entered into the system as well as verified by the employees of the Bank. On the directions of the Committee, it also brought on record the details of action taken by it against the erring bank employees. It was noted that out of the reported employees involved in the alleged entries only two employees were awarded punishment the details of which are given as below: -

V. Venakata Su - Reduction of one increment without cumulative effect for a period of one year

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P. Senthilkumaran – Dismissal from service other case dropped

It was noted that the said employees were involved not only in the reported entries but for various others reported in the report. In any case, the Committee proceeded to understand the scope of the Respondent's responsibility in concurrent audit in general as well as with respect to the voucher verification/ fund transfer.

7. It was noted that the Respondent had explained his role in concurrent audit of the branch stating that (W-3) they used to collect reports on all spheres of banking activities. He stated that everyday his staff members visited bank and then reported to the Respondent who also visited the branch as per requirements to verify the advances disbursed, Insurance Policies expired, Incipient sickness accounts on OD and CC accounts, 'Latest EC to be taken' cases, Non-Renewal of working capital limits, deposit and advances comparison month on month basis, cash deposit exceeding limits under income tax, inward cash remittances account, analysis of various expenses incurred in the respective months, Verification of transactions in Intersol, Term loan overdues, monthly verification of loan on deposits, documentation, KYC and AML compliances, cash holding excesses, TDS particulars, document register updation verification, post credit unit visits, charge register on MCA for limited companies, stock statements received, discussion with branch head and credit managers, periodic verification of balancing, loss events, safe custody items, dormant and inoperative accounts, ROI verification for each and every deposit and loan accounts, letter of credit, bills & BG issued opened overdue and expiring, penal interest for non-submission of stock statements and classification of accounts, ATM transactions and wrong debits compensation, customer complaints, seeing compliance in internal inspection reports, unauthorized expenses, excess payments of interest on deposit, locker rent collections, job rotation of bank staff, Daily/weekly/monthly and other periodical submission of statements, operation of staff accounts, GL Postings and extract of trail balances, suit filed accounts, discretionary power of officers, clearing cheques and housekeeping etc. Apart from the said routine transactions, they used to collect particulars on revenue leakages for every quarter. In every quarterly audit report they used to separately provide information of irregularities and complaints remained unaddressed by end of quarter, Outward Tapals, customer service, infrastructure facilities, handling of proposals, claims, security papers in stock, documents for building and undelivered credit cards, copies of BG issued, report on mortgage and furniture etc. and finalised report every month, quarter and half yearly basis with analytical reports on big borrowers by collecting the other reports done by Respondent's staff.

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8. It was noted that the Respondent before the Committee had not provided any specific submissions with respect to allegations made on account of absence of records. However, it was noted from appointment letter dated 19th June, 2013 (D-5 to D-10) issued to the Respondent firm by the Bank, that appointment terms include responsibility for verification of day-to-day vouchers with the day books on the daily basis when it, interalia, stated as follows (D-7):-

"Internal Check of the transactions:

- *Concurrent Audit covers internal checking of all transactions and others of the branch. The same should be carried out simultaneously within a period of one week of its occurrence.*
- *All Accounting Transactions whether paper based or generated by computer system.*

E.g., Vouchers, cash book, Transfer Book (both user Entered & system generated), Audit Trials such as Log Report, Exception Report (both Financial & Non-Financial) etc.

Concurrent Auditors are requested to check Cash Book, Transfer Book (User Entered) & also Transfer Book (system Generated which are available in Finacle >> Reports >> Daily > 1. "Cash Book" 2. Transfer Book (User Entered) & 3. Transfer Book (System Generated)). Regarding Exception Report (both Financial & Non-Financial), the branch will maintain separate file."

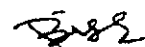
Further, it was noted that as per the directions of the Committee, the Complainant had brought on record the Format of Concurrent Audit Report which provide the framework of concurrent audit with respect to vouchers when the said Report laid the following clauses:

"B. Vouchers and Records

Whether

Sr. No.	Check list	Observations of Auditors
i.	<i>All the vouchers bear serial number and are complete in all respects</i>	
ii.	<i>On daily basis, all the vouchers are arranged in order, stitched together and sealed</i>	

2



iii	Verified all the vouchers and transactions arising out of it within 7 days of transaction with respective day books and records	
iii.A	Relevant and appropriate particulars of debit / credit entries are entered in the customers account	
iii.B	Verify the transactions in Intersol Transactions Account and report any unauthorized debit/ credit transactions	
iv.	Old records, including registers, ledgers, etc. are segregated and stored in an orderly and easily retrievable manner	
v.	Original vouchers removed for any purpose if any, are duly authorized and replaced by a certified photocopy, indicating the present where about of the original voucher	
vi.	You have signed with seal and date, on front wrapper of each voucher bundle, as a token of having verified	

From the above, it was clear that the Respondent, being concurrent auditor, had undertaken to check/ verify all the nature of transactions that took place in the branch which led to a wide responsibility and that it also includes transfer of funds between accounts based at the same branch. He was required to report the unauthorized transactions too. It was viewed that no-doubt that being main branch there would be voluminous transactions that would be taking place leading to voluminous verification responsibility, however, considering the terms of his appointment as well as the framework of audit as reflected from the Format of concurrent audit, he was required to report on unauthorized debit/ credit inter-sol transactions too. It was, accordingly, viewed that the Respondent was negligent in the performance of his professional duty.

9. It was noted that the Respondent had raised questions on action taken by the Bank against the internal audit department and statutory auditors for failure to provide information about the practice of bank employees for transferring funds without cheques. It was viewed that as per terms of his appointment, he was required to conduct concurrent audit independently and cover internal checking of all the transactions including verification of the said nature of entries. He could not escape from his responsibility by pointing lapses on other functions who could have also revealed the said defect. It was viewed that in case the Respondent had reported the said lapse in respect of any account, the Complainant Bank would have taken timely corrective measure and the said fraud be avoided. Thus, the Committee observed that the Respondent had not performed his

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professional duty with due diligence and for the said laxity, the Committee was of the view that the Respondent is Guilty of Professional Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949.

Conclusion

10. 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 the Second Schedule to the Chartered Accountants Act, 1949.

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Sd/-
[CA. Aniket Sunil Talati]
Presiding Officer

Sd/-
[Smt. Anita Kapur]
Member (Govt. Nominee)

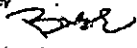
Sd/-
[Dr. K. Rajeswara Rao]
Member (Govt. Nominee)

Sd/-
[CA. Sushil Kumar Goyal]
Member

Sd/-
[CA. Piyush S. Chhajed]
Member

Date: 22nd December, 2023
Place: New Delhi

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बिष्वा नाथ तिवारी / Bishwa Nath Tiwari
कार्यकारी अधिकारी / Executive Officer
अनुशासन शाखा / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आदर्श नगर, बंगलूर, महाराष्ट्र, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shandra, Delhi-110032