

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2025-26)]
[Constituted under Section 21B of the Chartered Accountants Act, 1949]

Findings under Rule 18(17) and Order under Rule 19(2) of the Chartered Accountants
(Procedure of Investigations of Professional and Other Misconduct and Conduct of
Cases) Rules, 2007

PR/G/428B/19/DD/101/2020/DC/1871/2024

In the matter of:

Sh. M. Anuj, IRS,
Deputy Director of Income Tax (Inv.), Unit 4(4),
1st Floor (Room No. 114), Income Tax Investigation Wing, No. 46
Uthmar Gandhi Salai, Nungambakkam
Chennai (Tamil Nadu) - 600034

...Complainant

Versus

CA. Arul Anto Magesh A (M. No. 225591)
No 2/11, Ground Floor,
Valliammal Garden 1st Street,
Rangarajapuram
Kodambakkam
Chennai (Tamil Nadu) 600024

...Respondent

MEMBERS PRESENT:

CA. Charanjot Singh Nanda, Presiding Officer
Shri Jiresh Nandan, Member (Govt. Nominee)
Dr. K Rajeswara Rao, Member (Govt. Nominee)
CA. Piyush S Chhajed, Member
CA. Abhay Chhajed, Member

Date of Final Hearing: 20th August 2025

PARTIES PRESENT:

- (i) CA. Arul Anto Magesh A - the Respondent
- (ii) Shri S. Anand – Counsel for the Respondent
[both appeared through Video Conferencing from their respective personal location(s)]



1. **BACKGROUND OF THE CASE:**

- 1.1 In the extant case, the complaint has been filed by Deputy Director, Income Tax (Inv), Chennai (hereinafter referred to as '**Complainant**' or '**Complainant Department**') against CA. Arul Anto Magesh A (M. No. 225591) (hereinafter referred to as the '**Respondent**') stating that in respect of issuance of Form 15CB in the Statement recorded u/s 131 of the Income Tax Act, 1961, the Respondent and three other Chartered Accountants accepted that they did not know the directors / partners of the companies/ concerns personally and these companies were not their clients. Despite that, the Respondent had issued certificates in Form 15CB to these companies without verifying the relevant documents, thereby enabling them to send money out of India.

2. **CHARGE IN BRIEF:**

S.No.	Charge(s)	Prima Facie Opinion of the Director (Discipline)	Applicable Item of the Schedule to the Chartered Accountants Act 1949
1.	The Complainant alleged that the Respondent issued 15CB certificates in a very casual manner without examining the relevant documents viz. agreement between Assessee and foreign agency, relevant documents and books, due to which a huge amount of Rs. 849.83 crores (approx.) was remitted outside the country without payment of due taxes on it.	Guilty	Item (7) of Part I of Second Schedule

3. **RELEVANT ISSUES DISCUSSED IN THE PRIMA FACIE OPINION DATED 22ND MARCH 2024 FORMULATED BY THE DIRECTOR (DISCIPLINE) IN THE MATTER IN BRIEF, ARE GIVEN BELOW: -**

3.1 With respect to charge that the Respondent issued 15CB certificates in a very casual manner without examining the relevant documents:

- 3.1.1 On perusal of the statement of the Respondent recorded by the Complainant Department under Section 131 of the Income Tax Act, 1961, it was observed by Director (Discipline) that the Respondent relied merely upon vendor invoices raised by the foreign travel agencies.
- 3.1.2 It was further noted that no copy of air ticket, passenger list, hotel bills, taxi invoices and invoices of other facilities were enclosed with the invoices. Hence, it appeared that the Respondent certified the Form 15CB merely based on the proforma invoice.
- 3.1.3 Though the remittance sent to the foreign travel agency was not subject to TDS, yet keeping in view the documents brought on record by the Respondent, it appeared that the Respondent failed to establish that he had verified the relevant documents for certifying the Form 15CB.
- 3.1.4 In the absence of supporting documents that could establish the authenticity of the invoices and demonstrate that the bookings/services were actually made by the foreign travel agency on behalf of the Indian entities / passengers, the certification of Form 15CB for sending valuable foreign currency out of India could not be considered as certified after verification of the relevant documents/records.
- 3.1.5 Moreover, the Respondent has not retracted his statement given u/s 131 of the Income Tax Act, 1961.
- 3.1.6 Considering the above, the Director (Discipline) opined that the Respondent failed to exercise due diligence while certifying Form 15CB.
- 3.2 Accordingly, the Director (Discipline) in his Prima Facie Opinion held the Respondent GUILTY of Professional and Other Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule. The said Item of the Schedule to the Act, state as under:

Item (7) of 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"

- 3.3 The Prima Facie Opinion formed by the Director (Discipline) was considered by the Disciplinary Committee at its meeting held on 2nd May 2024. The Committee on consideration of the same, concurred with the reasons given against the charge(s) and thus, agreed with the Prima Facie opinion of the Director (Discipline) that the Respondent is **GUILTY** of Professional and Other Misconduct falling within the meaning of Item (7) of Part I of the Second Schedule to the Chartered Accountants Act, 1949 and accordingly, decided to proceed further under Chapter V of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007.

4. DATE(S) OF WRITTEN SUBMISSIONS/PLEADINGS BY PARTIES:

- 4.1 The relevant details of the filing of documents in the instant case by the parties are given below:

S. No.	Particulars	Dated
1.	Date of Complaint in Form 'I' filed by the Complainant	9 th March 2020
2.	Date of Written Statement filed by the Respondent	Received on 22 nd September 2020
3.	Date of Rejoinder filed by the Complainant	9 th October 2020
4.	Date of Prima Facie Opinion Formed by Director (Discipline)	22 nd March 2024
5.	Written Submissions by the Respondent after Prima Facie Opinion	13 th August 2025
6.	Written Submissions filed by the Complainant after Prima Facie Opinion	Not Submitted

5. WRITTEN SUBMISSIONS FILED BY THE RESPONDENT:

- 5.1 The Respondent in his written submissions pursuant to prima facie opinion had inter-alia submitted that:
- The clientele to whom these certificates were issued were all introduced or received through Shri. Syed Meeran, Director of Bagathoor Holidays Private Limited and there was no need or occasion for him to be their regular auditor or consultant to all these entities / companies.

- b) That before issuing of the certificates, the invoice copies produced by the client were duly verified.
- c) The bank statements were being seen and verified on a periodical and quarterly basis and it was not possible to verify the same for each and every transaction.
- d) Tax deductible at source was not applicable in these transactions, as the same is applicable only if permanent establishment exists in India.
- e) Form 15CB concerns only about ascertaining the nature of remittances and to determine the TDS liability thereon.
- f) The invoices contained the details of the transaction. There was no other material before him to doubt the genuineness of the documents.
- g) As a professional, he cannot act based on suspicion. He did not have any material with him to support the suspicion.
- h) The entities to which he had issued Form 15CB had valid PAN and account in the e-filing portal. They had operational accounts. Many were having certificate of registration issued by Registrar of Companies.
- i) The Respondent, to support his contention in the matter, relied upon the Judgement of the Honourable High Court of Madras, in the case titled Murali Krishna Chakrala Vs. Deputy Director, Directorate of Enforcement, reported as 2022 Live Law(Mad) 495, wherein it was held that a Chartered Accountant was required to examine the nature of the remittance:

“On a perusal of Form 15CB, we find that a Chartered Accountant is required to only examine the nature of the remittance and nothing more. The Chartered Accountant is not required to go into the genuineness or otherwise of the documents submitted by his clients. This could be compared with the legal opinion that are normally given by panel lawyers of banks, after scrutinizing title documents without going into their genuinity. A Panel Advocate, who has no means to go into the genuinity of title deeds and who gives an opinion based on such title deeds, cannot be prosecuted along with the principal offender. Applying the same anomaly, we find that the prosecution of Murali Krishna Chakrala, in the facts and circumstances of the case at hand, cannot be sustained.”

- j) The Respondent also relied upon the decision of the Disciplinary Committee, ICAI in the matter of CA. Govind Gupta, Delhi dated 5th February 2024 wherein the Chartered Accountant was held Not Guilty in the similar Form 15CB matter.

6. BRIEF FACTS OF THE PROCEEDINGS:

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

S. No.	Date	Status of Hearing
1.	26.09.2024	Part Heard & Adjourned
2.	15.10.2024	Fixed & Adjourned on request of Respondent
3.	18.12.2024	Fixed & Adjourned
4.	20.01.2025	Fixed & Adjourned
5.	30.07.2025	Fixed & Adjourned
6.	20.08.2025	Hearing Concluded & Decision Taken

6.1.1 During the hearing held on 26th September 2024, the Committee noted that the Complainant was not present before it. The Committee further noted that the Respondent was present before it via video conferencing. Being the first hearing, the Respondent was put on oath. Thereafter, the Respondent made a declaration that there was nobody else in the room from where he was appearing and that he would neither record nor store the proceedings of the Committee in any form. Thereafter, the Committee asked him whether he was aware of the charge(s) levelled against the Respondent to which he replied in affirmative. On being asked as to whether he pleaded guilty on the charges levelled, he pleaded Not Guilty and opted to defend the case. Thereafter, the Committee decided to adjourn the hearing to a future date, considering that this was the first hearing.

6.1.2 On the day of final hearing on 20th August 2025, the Committee noted that the Complainant was not present before it for the hearing. The Committee further noted that the Respondent along with his Counsel was present before it via video conferencing. Thereafter, the Committee asked the Counsel for the Respondent to make submissions in the matter. On the same, the Counsel for the Respondent made detailed submissions. The Committee sought clarifications on the submissions made which were responded to by him. Based on the documents available on record and after considering the oral and written submissions made before it by Counsel for the Respondent, the Committee concluded the hearing in the matter and took its decision.

7. **FINDINGS OF THE COMMITTEE: -**

On consideration of the documents on record and the oral and written submissions of the parties to the case vis-à-vis facts of the case, the Committee arrived at the following view on the conduct of the Respondent:

7.1 **Charge – The Respondent issued 15CB certificates in a very casual manner without examining the relevant documents:**

7.1.1 At the outset, the Committee noted that the charge against the Respondent is that he had issued certain certificates in Form 15CB to various companies without verifying the documents as per requirements of the said Form. According to the Complainant, the Respondent issued Form 15CB certificates in a very casual manner without examining the relevant documents due to which a huge amount of Rs. 849.83 crores (approx.) was remitted outside the country without payment of due taxes on it. It was also stated by the Complainant that the said charges also strengthen from the Statement on Oath of the Respondent, wherein, he accepted that he did not know the directors/partners of the Companies/Concerns personally and the travel companies were not his clients.

7.1.2 The Committee, in this regard, noted that the Respondent's statement was recorded by the Complainant Department under Section 131 of the Income Tax Act, 1961, wherein the Respondent, inter-alia, stated that:

- a) A total of 1,053 certificates involving Rs.282.64 crores and 44.30 million USD were issued between June 2016 and March 2018.
- b) Certificates were issued to 17 clients/companies, including Represent Travel Ways, Exodus Adventure Tours and Travels Pvt Ltd., Brandus Pvt. Ltd., Raahe Tours and Travels Pvt Ltd., Bagathoor Holidays Pvt Ltd., and others.
- c) The director of Bagathoor Holidays Pvt. Ltd (Sri Syed Meeran) and Raahe Tours & Travels Pvt Ltd (Sri Noorudeen Mohammed Sami) introduced and recommended other clients.
- d) The certificates were issued based on invoice copies provided by the clients.
- e) That, he periodically used to request bank statements from the said concerns in order to verify whether the amounts were actually remitted abroad.

- f) The remittances for which 15CB certificates were issued were for tour expenses of tourists arranged by travel agents and tour operators. The remittance purpose was stated as "tour cost expenses" for trips abroad.
- g) He did not conduct due diligence into the nature of the businesses or transactions. And he also used to check whether the foreign companies were active.
- h) He acknowledged awareness that tour operators are considered high-risk remitters by the Reserve Bank of India but maintained that his role was limited to tax liability assessment.

7.1.3 The Committee noted that Form 15CB involve certification by a Chartered Accountant under Rule 37BB of Income Tax Act, 1961, wherein a Chartered Accountant is required to give an undertaking to have verified the facts of the matter as reproduced hereunder:

"I/We have examined the agreement (wherever applicable) between Mr./Ms./M/s*..... (Remitters) with PAN/TAN..... and Mr./Ms./M/s*.....(Beneficiary) requiring the above remittance as well as the relevant documents and books of account required for ascertaining the nature of remittance and for determining the rate of deduction of tax at source as per provisions of Chapter- XVII-B. We hereby certify the following..."*

7.1.4 The Committee, on the perusal of Form 15CB certificate as per Rule 37BB of Income Tax Act, 1961, observed that the Respondent was required to check agreement, wherever applicable, and documents and books of account for ascertaining the nature of remittance for determining the rate of Tax deduction at source. It is noted that the Respondent in his submissions mentioned that he had examined the available documents as relevant, viz invoices from foreign operators, bank statements, etc. The Committee further noted that as per invoices, nature of remittance itself is ascertainable, which is the prerequisite. Based on the nature of remittance, the Respondent was required to give his opinion on the applicability of TDS.

7.1.5 The Committee further noted that the said certificate does not require the Respondent to look into the genuineness of the underlying transaction or the authenticity of the said invoice, nor does it require genuineness of the actual provision of services or

supply, as the case may be. In other words, said certificate does not provide assurance in regard to genuineness of transaction or actual provision of services. It is pertinent to note that in certain cases, the authorised dealer i.e. remitting Bank, seeks separate certificate regarding the actual provision of services.

- 7.1.6 The Committee further observed that a Chartered Accountant while issuing the certificate in Form 15CB is required to give an undertaking that he/she had verified the relevant documents for ascertaining the nature of remittance for determining the rate of deduction of tax at source. In the instant case, it is noted that the Respondent was provided with documents/information on which he relied for issuing Form 15CB certificates to the Company. The Committee viewed that neither it is feasible for a Chartered Accountant to verify each and every underlying travel document unless there exists suspicion on the documents produced, nor the law mandates existence of a written agreement in each and every case as the words of Form 15CB itself mentions "wherever applicable".
- 7.1.7 The Committee further noted that the role of the Chartered Accountant is limited to examining the nature of the remittance, the applicable provisions of the Income Tax Act, and to certify whether tax is deductible at source, based on the relevant documents and books of accounts made available to them. Thus, keeping in view the overall facts, circumstances and documents on record, the Committee, accordingly, viewed that the duty of a Chartered Accountant for issuing Form 15CB is confined to examining the nature of the remittance, and not to ascertain the genuineness of the underlying transactions. Moreover, a Chartered Accountant is not required to establish the genuineness of documents beyond what is reasonably verifiable, nor to investigate the business affairs of the client beyond the scope of the certificate. In the present case, the Committee noted that Respondent had examined the relevant documents. The Committee further viewed that any subsequent wrongful acts, if committed by client/other persons would not render the Respondent liable. Further, no evidence was found to corroborate the Respondent's involvement in the impropriety later committed by the client.
- 7.1.8 Accordingly, the Committee on consideration of the facts of the case vis-vis documents/submissions available on record concluded that the Respondent CA. Arul Anto Magesh A (M. No. 225591) is **Not Guilty** of Professional Misconduct falling

செயல்பாட்டுக்குரிய அங்கீகரிக்கப்பட்ட நிர்வாகியின் பெயர் மற்றும் முத்திரை

Deputy Director of Income Tax (Inv.) **CA Arul Anto Magesh A (M. No. 225591)**

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within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.

8. **CONCLUSION:**

In view of the findings stated in the above paras, vis-à-vis material on record, the Committee gives its charge wise Findings as under:

CHARGES (AS PER PFO)	FINDINGS	DECISION OF THE COMMITTEE
S.no. 1 of Para 2 as above	Para 7.1.1 to Para 7.1.8 as above	Not Guilty- Item (7) of Part I of Second Schedule

9. In view of the above observations, considering the oral and written submissions and material on record, the Committee held the Respondent **NOT GUILTY** of Professional Misconduct falling within the meaning of Item (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949.
10. Accordingly, in terms of Rule 19(2) of the Chartered Accountants (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007, the Committee passes an Order for closure of this case against the Respondent.

Sd/-
[CA. CHARANJOT SINGH NANDA]
PRESIDING OFFICER

Sd/-
[SHRI JIWESH NANDAN]
MEMBER, (GOVT. NOMINEE)

Sd/-
[DR. K RAJESWARA RAO]
MEMBER, (GOVT. NOMINEE)

Sd/-
[CA. PIYUSH S CHHAJED]
MEMBER

Sd/-
[CA. ABHAY CHHAJED]
MEMBER

DATE: 12.11.2025

PLACE: New Delhi

प्रमाणित होने के लिए / Certified to be True Copy


अनिल कुमार / Anil Kumar

सहायक सचिव / Assistant Secretary

Deputy Director of Income Tax (Inv.) Vs. CA. Anil Kumar (M. No. 225591)

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