



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

[PR-21/16-DD/115/2016/DC/1485/2021]

ORDER UNDER SECTION 21B(3) OF THE CHARTERED ACCOUNTANTS ACT 1949 READ WITH RULE 19(1) OF THE CHARTERED ACCOUNTANTS (PROCEDURE OF INVESTIGATION OF PROFESSIONAL AND OTHER MISCONDUCT AND CONDUCT OF CASES) RULES, 2007.

File No.: PR-21/16-DD/115/2016/DC/1485/2021

In the matter of:

**The Assistant General Manager, UCO Bank
UCO Bank Field Inspectorate
13/22, Ground Floor
K G Road, Bangalore
KARNATAKA -560009**

.....Complainant

Versus

**CA. V Kandaswamy (M.No. 207573),
Flat No.26 Aarthi Arcade
IV Floor, 86, Dr. Radhakrishnan Salai,
Chennai (Tamil Nadu) - 600 004**

.....Respondent

Members present:

CA. Aniket Sunil Talati, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
Dr. K Rajeswara Rao, Member (Govt. Nominee)
CA. Sushil Kumar Goyal, Member
CA. Piyush S Chhajed, Member

Date of Final Hearing: 12.04.2023 through Video Conferencing

Place of Hearing: New Delhi

Party Present:

(i) CA. V Kandaswamy – Respondent (appeared from his personal location)

1. That vide report dated 07.02.2023, the Disciplinary Committee was of the opinion that **CA. V Kandaswamy (M. No. 207573)** was **GUILTY** of Professional as well as Other Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule and Item (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949, as being concurrent auditor of the UCO Bank- Chennai Branch, he failed to report serious irregularities committed in advance portfolio of Chennai Main Branch of UCO Bank during the period October 2014 to January 2015. The allegations against the Respondent as per Complainant are of serious irregularities which involved:

- cases wherein loans were reported to be sanctioned on the basis of fake ITR/partnership deeds/sale deeds,
- non-reporting of gross irregularities committed by the branch officials by not creating EMTD/MOTD, CERSAI/ PDIR etc. while sanctioning various loan proposals particularly Home Loans & Car Loans
- failure in verifying the CIBIL reports with respect to home loan as well as car loan or non-availability of PDCs (Post Dated Cheques)

BitB



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

[PR-21/16-DD/115/2016/DC/1485/2021]

It was noted that Item (7) of Part-I of the Second Schedule and Item (2) of Part IV of First Schedule state as under:-

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

First Schedule

PART IV : Other misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other 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.

2. An action under Section 21B (3) of the Chartered Accountants Act, 1949 was contemplated against the Respondent and communication dated 27th March, 2023 was addressed to him thereby granting him an opportunity of being heard in person and/or to make oral/ written representation before the Committee on 12th April, 2023 through video conferencing.

3. The Respondent appeared before the Committee on 12th April, 2023 through video conferencing and made his oral representations on the findings of the Disciplinary Committee. The Committee considered the oral as well as the written representation dated 7th April, 2023. The Respondent inter-alia submitted that concurrent auditors are not forensic experts and that the Complainant had not given any evidence that concurrent audit reports did not flag the concerns that were raised in the allegations made against him. The Respondent further submitted that assessment of ability and willingness of the borrower was the responsibility of Bank officials and that the concurrent auditor cannot step into the shoes of Bank Officials. He contended that such assessments are not made merely based on documentary evidences produced, but by a thorough scrutiny of proposal and assessment of ability and willingness to pay of the borrower. If such documentary evidences were fabricated, the concurrent auditor could not be expected to verify the same. He further stated that it is a common practice in Tamil Nadu to register the Undivided Share of Land (UDS) and to have a separate construction agreement. In such cases, the registered value of the land would be substantially lower than the total value of the property including construction cost and as a result, there would be a wide difference between the property value, loan value and the value of UDS registration. However, this could not form a basis for deciding that the loan value or the property value was overstated. Any amount of verification of sale deed through certified copy from SRO was not going to give a clue on the total value of the property, including the cost of construction and the concurrent auditor was not expected to be a property expert to find out the actual value of the property.

The Respondent further argued that credit reports could not be error free and such dues or over-dues indicated therein are considered serious or overlooked, depending on various qualitative factors. The Respondent further admitted before the Committee on 12th April 2023 about conducting audit during the period October 2014 to January 2015.

Bis



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

[PR-21/16-DD/115/2016/DC/1485/2021]

4. The Committee considered the oral as well as written representation of the Respondent and noted that in extant case the allegations clearly establish lacuna on the part of the Respondent in conduct of his duties while performing concurrent audit of Complainant's Bank Chennai Main Branch for the period the period October 2014 to January 2015. At the outset, the Committee noted that in extant case only those allegations against the Respondent had been investigated and enquired that had been reported in relation to loans sanctioned during the period of his concurrent audit based on Synopsis of special investigation report dated 10/08/2015 conducted by Bank's Inspection team (C-6 to C-17) reporting account wise lapses on the part of Respondent under various schemes (C-18 to C-45). Regarding the plea of the Respondent that bank officials were required to conduct enquiries and verify the genuineness of the ITRs/ partnership deeds of the borrower(s), existence of business units, verification of sale deed through certified copy from Sub Registrar Office etc., the Committee noted that verification of documents based on which loans were being sanctioned was an underlying responsibility of a concurrent auditor. The Committee noted that as per engagement letter dated 3rd November, 2014 (D-15 to D-18) issued to Respondent firm by the Complainant Bank which was duly accepted by Sh. J. Singh on behalf of the Respondent Firm vide letter dated 8th December, 2014 (D-11 to D-14) the following terms under clause 23 and 26 were expected to be complied with by the Respondent firm while conducting concurrent audit:-

"23. You have to carry out Physical verification of the properties mortgaged to the bank of at least 25% of the properties mortgaged every quarter (by rotation)." (D-17)

"26. You should verify all advances related documents; including insurance policies & obtaining of Post Dated Cheques (PDCs) wherever applicable sanctioned/ disbursed during the month as per terms of sanction and issue a certificate after verification." (D-17)

Further, as per Do's and Don'ts Statement for Concurrent Auditors under Do's column, the Respondent has agreed to the terms that *"We shall – (1) do pre concurrent audit study of the branch/ department for getting all relevant information and off site surveillance reports of the auditee."* In case, it came across any fraudulent activity then it was bound to report the same when the said engagement letter.

Regarding the reported cases of discrepancies, observations included loans sanctioned on the basis of fake ITR/partnership deeds/ sale deeds, the Committee noted that verifying the genuineness of ITR returns/partnership deeds/ sale deeds being produced with loan documents could not be expected to be identified by a concurrent auditor. However, the Concurrent auditor is expected to be vigilant while conducting audit. It was noted that the Respondent had been alleged for failure to report the gross irregularities committed by the branch officials by not creating EMTD/ MOTD, CERSAI/ PDIR etc. while sanctioning various loan proposals particularly Home Loans & Car Loans and also failed in verifying the CIBIL reports with respect to home loan as well as car loan or availability of PDCs (Post Dated Cheques). The Committee noted that considering the terms of his engagement, it is amply clear that he was expected to adopt substantive audit procedures to verify if loans being sanctioned were backed by proper documents viz. whether title deeds & supporting documents were obtained as per the legal opinion & valid EMTD was created, whether certified copy of the original title deed obtained and compared with original title deeds properties mortgaged to Bank, whether proper documents complete in all respects for each loan account was obtained, whether loans were sanctioned after generating the CIBIL report and considering the same, whether vehicle against which loan was given was sufficiently insured etc. Accordingly, it was noted that the allegations made against the Respondent primarily involve two kinds of reporting failures – reporting of loans sanctioned based on fake documents as well as those wherein the gross irregularities were

Page



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

[PR-21/16-DD/115/2016/DC/1485/2021]

committed by the branch officials by not creating EMTD/ MOTD, CERSAI/ PDIR etc. while sanctioning various loan proposals particularly Home Loans & Car Loans. It was noted that whereas former kind of lapses involve huge loss but it was nevertheless true that a concurrent auditor could not be expected to identify fake rubber stamp on ITRs or verifying the genuineness of ITR returns/partnership deeds/ sale deeds. However, a concurrent auditor is expected to be vigilant while conducting audit and expected to report the gross irregularities committed by the branch officials by not creating EMTD/ MOTD, CERSAI/ PDIR etc. while sanctioning various loan proposals particularly Home Loans & Car Loans. However, such negligence has not caused any huge loss to the Bank. Thus, keeping in view, overall facts and circumstances of the case, the Committee decided to take lenient view in the matter.

5. The Committee thus viewed that the misconduct on the part of the Respondent has been held and established within the meaning of Item (7) of Part-I of the Second Schedule as well as Item (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949 and keeping in view the facts and circumstances of the case as aforesaid, ordered that the Respondent **CA. V Kandaswamy (M. No. 207573)** be Reprimanded.

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: 1st May, 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
अनुशासनशास्त्र विभाग / Disciplinary Directorate
इंस्टीट्यूट ऑफ चार्टर्ड एकाउंटेंट्स ऑफ इंडिया
The Institute of Chartered Accountants of India
आईसीआई भवन, विश्वास नगर, शाहदरा, दिल्ली-110032
ICAI Bhawan, Vishwas Nagar, Shahdara, Delhi-110032

[PR-21/16-DD/115/2016/DC/1485/2021]

CONFIDENTIAL

DISCIPLINARY COMMITTEE [BENCH – III (2022-23)]
[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-21/16-DD/115/2016/DC/1485/2021]

In the matter of:

The Assistant General Manager, UCO Bank
UCO Bank Field Inspectorate
13/22, Ground Floor
K G Road, Bangalore
KARNATAKA -560009

.....Complainant

Versus

CA. V Kandaswamy,
Flat No.26 Aarthi Arcade
IV Floor, 86, Dr. Radhakrishnan Salai,
Chennai (Tamil Nadu) - 600 004

.....Respondent

MEMBERS PRESENT:

CA. Aniket Sunil Talati, Presiding Officer
Smt. Anita Kapur, Member (Govt. Nominee)
Dr. K Rajeswara Rao, Member (Govt. Nominee)
CA. Vishal Doshi, Member
CA. Sushil Kumar Goyal, Member

Date of Final Hearing: 13th January, 2023 through Video Conferencing

PARTIES PRESENT:

- (i) Sh. Nilesh S. Parate – the Complainant's Representative
- (ii) CA. V. Kandaswamy – Respondent
- (iii) Shri B. Ramnakumar – Counsel for Respondent

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 and Item (2) of Part IV of First Schedule to the Chartered Accountants Act, 1949 read with Section 22 of the said Act.

Item (7) of Part I to the Second Schedule and Item (2) of Part IV of First 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”

Part IV of First Schedule:

PART IV: Other misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of other 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”

Brief background and the allegations against the Respondent

2. In the extant case, the Respondent was appointed as Concurrent Auditor by the UCO Bank, Chennai Main Branch (hereinafter referred to as the ‘**Complainant Bank**’). The Complainant Bank has alleged that the Respondent being concurrent auditor of the Bank, had failed to report serious irregularities committed in advance portfolio of

Chennai Main Branch of UCO Bank during the period of October (Sic October 2014) to January 2015. He stated that in terms of Clause 10 of his engagement letter, whenever, he came across any serious irregularity or transactions, he had to draw a flash/ special report and copy of the same be forwarded to Zonal Manager, Circle Head, Field Inspectorate and Inspection department Head Office, which the Respondent had failed to comply with.

2.1 It was noted that that the Complainant had brought on record Synopsis of special investigation report dated 10/08/2015 conducted by Sh. P.C. Mohapatra, Senior Manager, Inspection and Sh. K. Suresh Kumar, Senior Manager, Inspection (C-6 to C-17) alongwith account wise lapses on the part of Respondent under various schemes (C-18 to C-45). Further it was noted that the details provided in the Synopsis and the Annexures attached thereto contained the date of sanction of loan and other details of lapses. Considering the fact that the Respondent could be held liable only for the loans/ advances sanctioned during the period of his concurrent audit and that in the absence of information regarding the details about the disbursal of loan, Director (Discipline) in his prima facie opinion, had restricted to only those allegations against the Respondent that had been reported in relation to loans sanctioned during the period of his concurrent audit as discussed below:-

Table of loans/ credit limits sanctioned during the concurrent audit period (October, 2014 to January, 2015) of the Respondent is as under (C-8 to C-17):-

Abstracts of Synopsis of Special Investigation Report

Abstract I

- 41 borrowers had availed loan of Rs.1478.03 lac against their manipulated/inflated income by producing fake ITRs with fraudulent intension of cheating the bank. The details are given below:

S. No.	CUSTOMER NAME	A/C NUMBER	LIMIT Rs. 'Lac'	B/o In Lac	DATE OF SANCTION	REMARKS

[PR-21/16-DD/115/2016/DC/1485/2021]

2	CHANDRASHEKAR R (Elder Brother)	00410610023068 (Property Loan)	50.00	48.18	19-01-2015	Annual Agril income of Rs.959000/- was taken in to consideration without obtaining any proof/evidence to this effect. Co-applicant whose occupation is mentioned as house wife in process note but her gross income of Rs.633745/- shown in ITR-14-15 was taken in to consideration while processing. No discrete inquiry/verification was made. Property loan sanctioned against settlement deed between younger brother & elder brother over dry land agricultural land (against norm under the scheme) MOTD not done Qualified CIBIL report with outstanding dues of Rs.88.73 lac in 4 a/cs not taken in to consideration.
8	VENKATESHWARAN S	0041061021880 (CAR Loan)	11.00	10.51	08-10-2014	ITR for 14-15 with tax payable amount of Rs.119240/- found fake.
9	PAZHANIVEL V	00410610022092 (CAR Loan)	15.00	14.36	23-10-2014	ITR for 14-15 with tax payable amount of Rs.32790/- found fake. 2nd Car loan sanctioned within a gap of four months.
10	NESAMANI GANESAN	00410610022122 (CAR Loan)	13.30	12.41	29-10-2014	ITR for 13-14 found fake Qualified CIBIL report with outstanding dues of Rs.2.40 lac in 3 a/cs not taken in to consideration.
11	SENTHIL KUMAR V	00410610022429 (CAR Loan)	9.82	9.39	13-11-2014	ITR for 14-15 with tax payable amount of Rs.112110/- found fake.
12	MANIKANDAN J JANAKIR	00410610022658 (CAR Loan)	6.97	6.50	04-12-2014	ITR for 14-15 with tax payable amount of Rs.107540/- found fake. Qualified CIBIL report with outstanding dues of Rs.1.26 lac in 3 a/cs not taken in to consideration.
13	GOPI S	00410610022894 (CAR Loan)	7.99	8.24	26-12-2014	ITR for 12-13,13-14 & 14-15 found fake.
14	ANANDAN A C	00410610023037 (CAR Loan)	34.91	34.25	05-01-2015	ITR for 12-13,13-14 & 14-15 found fake. Financed for Audi CAR.
28	SUNDAR RAJAN PANER	00410610022139 (Home Loan)	36.00	36.92	29-10-2014	ITR for 12-13, 13-14 & 14-15 found fake. Deduction under Chapter-VIA shown as Rs.161475/- against Rs.1.50 lac MOTD not done Qualified CIBIL report with outstanding dues of Rs.3.33 lac in 1 a/cs not taken in to consideration.
29	LIVINGSTEN	00410610022146 (Home	33.00	33.48	29-10-2014	Tax payable amount of Rs.45110/- shown in

[PR-21/16-DD/115/2016/DC/1485/2021]

	AROCKIAS	Loan)				ITR for 14-15 is found fake. Against sale agreement of Rs.38.17 lac sale deed executed for Rs.14.00 lac MOTD not done Qualified CIBIL report with outstanding dues of Rs.3.03 lac in 5 a/cs not taken in to consideration.
30	MRS. SUDHA M (Applicant)-wife Mr. T. Sravanana (Co-applicant) Husband	0041061002 2498 (Home Loan)	46.00	46.75	22-11-2014	ITR for 14-15 showing tax payable amount of Rs.231120/- found fake. ITR for 14-15 of Co-applicant showing tax payable amount of Rs.377000/- also found fake. Husband also availed one home loan of Rs. 70.00 lac six months back on 09.05.14 Availed one Car loan of Rs. 3.00 lac on 07.08.14 Both husband & wife availed two home loan & one car loan N Thangavel (father-in-law) sold property to Mrs. Sudha M (daughter-in-law) Qualified CIBIL report with outstanding dues of Rs. 1.25 lac in 2 a/cs & not taken into consideration Against sale agreement of Rs. 60.00 lac sale deed executed for Rs. 11.50 lac Property situated at Erode which is 400 km away from the branch. Market value of initial valuation report dated 27.10.14 says 50.29 lac whereas fresh valuation dated 10.08.15 obtained through erode branch says the same property valued at Rs. 13.00 lac only.
31	GOPI S	0041061002 2535 (Home Loan)	65.00	67.25	25-11-2014	ITR for 12-13, 13-14 & 14-15 found fake. Financed to business person having no business unit in existence. His mother also has availed one home loan of Rs.42.00 lac against manipulating her salary income & position who is staying in a 10x10ft rented house & serving as Ayya (sweeper) in a private hospital. Against sale agreement of Rs.72.21 lac sale deed executed for Rs.23.50 lac MOTD not done. Slipped to NPA-Quick mortality He has also availed one CAR loan of Rs.7.99 lac on 26-12-2014 against manipulated income & staying in a rented house of 10x10ft size room

[PR-21/16-DD/115/2016/DC/1485/2021]

32	RAJESH GUPTA	0041061002 2610 (Home Loan)	14.90	14.77	27-11-2014	ITR for 12-13 found fake. Against sale agreement of Rs.20.91 lac sale deed executed for Rs.4.28 lac
33	KALA S SARAVANAN	0041061002 2627 (Home Loan)	42.00	43.39	29-11-2014	Salary Slip of applicant Mrs. Kala manipulated from Rs.10625/-(Oct'14) to Rs.36645/-. Being a daily wagger & having no salary, salary slip of Co-applicant (Mr. Sarvanan-husband) was totally manipulated to Rs.48999/-pm. Words & figure mentioned in both salary slips do not match. Sale/Title deed neither obtained nor EM created. Slipped to NPA-Quick mortality
34	GANESAN A	0041061002 2672 (Home Loan)	40.97	41.06	05-12-2014	ITR for 12-13, 13-14 & 14-15 showing tax payable amount of Rs.1.00 lac found fake. Against sale agreement of Rs.58.50 lac sale deed executed for Rs.15.00 lac.
35	MEENA A	0041061002 2696 (Home Loan)	50.00	52.02	06-12-2014	ITR for 12-13, 13-14 & 14-15 found fake. Against total tax of Rs.189960/- a tax challan receipt of Rs.4500/- only submitted to branch. MOTD not done Qualified CIBIL report with outstanding dues of Rs.10.63 lac in 1 a/cs not taken in to consideration. Loan financed to business person having no business unit in existence. A.C. Anandan (husband & Co-Applicant) has sold property to Mrs. Meena A (wife & Applicant) Slipped to NPA-Quick mortality
36	ARUN RAKESH K	0041060022 863 (Home Loan)	70.00	70.56	23-12-2014	ITR for 14-15 showing zero income found fake. Monthly income derived from CA certificated as Rs.84309/-. ITR for 12-13, 13-14 & 14-15 of Co-applicant (his father) also found fake. Against sale agreement of Rs.94.99 lac sale deed executed for Rs. 27.00 lac on 01-04-2015 (construction agreement date) Accommodative loan sanctioned for adjustment of mortgage loan availed from Repco Home Finance Ltd against manipulated income, future dated sale agreement (20.02.15) & construction agreement (01.04.15)- thus credit discipline violated. Nalini Kandaswamy (mother) sold property to son Mr. Arun Rakesh K Qualified CIBIL report with outstanding dues

[PR-21/16-DD/115/2016/DC/1485/2021]

						<i>of Rs.58.17 lac in 2 a/cs & overdue of Rs.0.75 lac in one a/c not taken in to consideration.</i>
37	RAMESH U UDAIYAR	0041061002 3006 (Home Loan)	49.90	50.21	31-12-2014	ITR for 14-15 showing tax payable amount of Rs.212000/- & tax deduction under chapter VI-A of Rs.154000/- found fake. ITR for 12-13 & 13-14 also found fake. MOTD not done.
38	ARUMUGAM S	0041061002 3044 (Home Loan)	28.89	29.92	06-01-2015	ITR for 13-14 & 14-15 found fake. Qualified CIBIL report with overdue & outstanding dues of Rs.0.17 lac in 2 a/cs not taken in to consideration.
39	RAJKUMAR P PARAMASIV	0041060023 051 (Home Loan)	57.93	60.19	13-01-2015	ITR for 13-14 & 14-15 found fake. Against Tax payable amount of Rs.942550/- no tax has been paid. Slipped to NPA-Quick mortality Against sale agreement of Rs.69.52 lac sale deed executed for Rs.22.00 lac EM not created. Loan Financed to business person having no business unit in existence.

Abstract II

- In addition to above **MOTD also not done** in following 3 cases under UCO Home loan of Rs.69.40 lac. (C-16)

S. No.	CUSTOMER NAME	A/C NUMBER	LIMIT (Rs. 'Lac')	BAL. AMT. (Rs. 'Lac')	DATE OF SANCTION	SCHEME
2	SHYAMSUNDAR KRISHNA	00410610022399	26.67	26.43	11-11-2014	UCO HOME LOAN

Abstract III

- The key person (Partner) in VIP export, Mr. V.Pazhanivel & other three partners have managed to avail **11 loans of Rs.395.95 lac in different names.** (C-16 to C-17)

S. No.	CUSTOMER NAME	A/C NUMBER	LIMIT (Rs. 'Lac')	BAL. AMT. (Rs. 'Lac')	DATE OF SANCTION	SCHEME	REMARKS
3	PAZHANIVEL V	00410610022092	15.00	14.36	23-10-2014	CAR LOAN	Partner
5	SUDHA M (Applicant)-	0041061002249	46.00	46.75	22-11-	HOME	Partner

[PR-21/16-DD/115/2016/DC/1485/2021]

	SARAVANAN T (Co-applicant)	8			2014	LOAN	
8	RAJKUMAR P PARAMASIV	0041061002305 1	57.93	60.19	13-01- 2015	HOME LOAN	Pazhanivels' Letter Dated 07- 07-2015
9	KALA S SARAVANAN	0041061002262 7	42.00	43.39	29-11- 2014	HOME LOAN	
10	GOPI S	0041061002253 5	65.00	67.25	25-11- 2014	HOME LOAN	
11	GOPI S	0041061002289 4	7.99	8.24	26-12- 2014	UCO CAR LOAN	

Abstract of Annexures - Additional accounts reported in the annexures (C-18 to C-45):-**Abstract of Annexure :- OB-1 (C-27)**

B/o Chennai Main 0041

OBSERVATION ON UCO HOME LOAN

S. No.	Name	A/c No	Date of sanction	Limit sanctioned [in lac]	Balance Outstanding [in lac]	CIBIL (Outstanding)		CIBIL (Overdue)	
21.	RAVICHANDRAN PERAKUL	00410610022634	01-12-2014	25.00	25.52				

OBSERVATIONS:-

- Employment verification bears no office stamp & address and signature of authorised signatory/Asst. Manager (HR) not verified/confirmed by branch officials.
- CIBIL report not generated.

Abstract of Annexure :- OB-3 (C-37)

B/o Chennai Main 0041

OBSERVATION ON UCO CAR LOAN

S. No.	Name	A/c No	Date of sanction	Limit sanctioned [in lac]	Balance Outstanding [in	CIBIL (Outstanding)		CIBIL (Overdue)	

[PR-21/16-DD/115/2016/DC/1485/2021]

					lac]				
13.	RAMACHANDRAN M	00410610022887	26-12-2014	4.93	4.97				
OBSERVATIONS:- - Both borrower & guarantors are brothers belongs to Sevalanpur, Salem which is 340 kms away from the branch-monitoring may cause a serious problems. - Process note indicates borrower is a mechanical engineer under M/s Arulnambi Engg. Consultants where Mr. Arulnabi was our empanelled valuer but PSVR-2 raised by Mr. R. Jayanandan states he is the sole proprietor. - Position held by Mr. Ramchandran M neither mentioned in process note nor a certificate obtained from M/s Arulnambi Engg. Consultant firm to this effect. - PSVR-1 of both borrower & guarantor with present residential address not raised. - Copy of RC book states both present & permanent address is same-Salem. Invoice of CAR financed with acknowledgement of borrower not obtained. End use of funds not verified. PDC's not obtained. Duplicate key not obtained. - Financing to a borrower who belongs to salem area & CAR purchased from a dealer of salem area appears to be suspicious. - Both recommending authority (Mr. R Jayanandan-SM) & Sanctioning authority (Mr. P.L. Acharya-AGM) while showing favour to a borrower beyond 340 kms away from the branch have not exercised due care in financing and exposed the bank an expected risk of Rs. 5.00 lac.									

Abstract of Annexure :- OB-6 (C-45)

B/o Chennai Main 0041
OBSERVATION ON UCO EDUCATIONAL LOAN

S. No.	Name	A/c No	Date of sanction	Limit sanctioned [in lac]	Balance Outstanding [in lac]	CIBIL (Outstanding)	CIBIL (Overdue)
8.	HARIHARAN JAYAKUMAR	00410610022009	17-10-2014	3.80	1.97		
OBSERVATIONS:- Insurance under Kotak Mahindra not done.							
9.	DIVYASHREE PRABAKAR	00410610022016	17-10-2014	2.15	0.73		
OBSERVATIONS:- Insurance under Kotak Mahindra not done. Xerox copy of fee structure obtained in lieu of original.							
10.	KINGSHUK GHOSH	00410610022108	23-10-2014	4.00	2.57		
OBSERVATIONS:- Insurance under Kotak Mahindra not done. KYC document not verified. Xerox copy of fee structure obtained in lieu of original.							
11.	ARUL KANMANI V K KAR	00410610023273	31-01-2015	3.16	3.03		
OBSERVATIONS:-							

- Insurance under Kotak Mahindra not done.
- A-49B partially in

Proceedings:

3. During the hearing held on 13th January 2023, the Committee noted that the Complainant and the Respondent alongwith his Counsel were present before it for hearing through video conferencing. Thereafter, they gave a declaration that there was nobody except them in their respective room from where they were appearing and that they would neither record nor store the proceedings of the Committee in any form. The Committee noted that the matter was part-heard. It was noted that during the previous hearing held on 26th December, 2022, considering the submissions made by the Counsel for the Respondent, the Committee had asked the Complainant to provide evidences of the period during which the Respondent had conducted audit viz:

(i) Copy of concurrent audit reports as submitted by the Respondent to the Bank and

(ii) Copy invoices as raised by the Respondent for the work performed by him.

The Committee noted that the Complainant had brought on record certain alternate documents to demonstrate the period for which audit was conducted by the Respondent. The Committee asked the Counsel for the Respondent to make submissions in the matter. The Counsel for the Respondent made his submissions in the matter. The Committee, thereafter, examined him on the facts of the case.

3.1 Based on the documents and information available on record and after considering the oral and written submissions made by both the parties, the Committee concluded hearing in the matter.

Findings of the Committee:

4. At the outset, the Committee noted that the Respondent had raised certain preliminary plea before submitting account wise submissions to support his innocence in the matter:-

- (a) That the tenure of his Concurrent Audit of Complainant Bank was only for 41 days i.e. from 22nd December 2014 (date of receipt of acceptance of offer from Complainant Bank by the Respondent Firm) till 31st January 2015 (date of termination as per Respondent) during which they were only able to acclimatized with the bank, its officers and its operations. However, the bank had made an attempt to include many lapses that occurred years before their appointment as well as after their termination, which were unearthed as part of a special investigation. Thus, as per the the Respondent, he was not liable for the irregularities raised by Complainant Bank.
- (b) He argued that the bank officials i.e. Senior Manager and Sanctioning Authority had failed to exercise due diligence and that they should check and verify the income proofs, business units, execution of proper sale deed and verification of sale deed through certified copy from Regional Office (SRO) which led to perpetration of fraud. He stated that filing fake ITR/ financials/ income related documents with a Bank was a criminal act and as concurrent auditor he could not be expected to detect the same in the normal course of his duties. As per him, it was the duty of the bank/ branch officials to assess the ability and the willingness of the borrower to repay, besides evaluating the value of the securities offered. When there was an error or fraud in assessing the ability or willingness of the borrower, the concurrent auditor was not expected to step in the shoes of the recommending authority or the sanctioning authority, and verify whether the necessary documents were available. Thereafter, the Respondent submitted against the specific charges raised on accountwise details provided as discussed in the table of paragraph 2.1 above.
- (c) The Respondent stated that an analysis of the 41 borrowers, indicated that
- 18 of these proposals were sanctioned between 30th November 2013 and 27th September 2014, which was period before the concurrent audit period of 1st October 2014 to 31st January 2015.
 - Another 13 of these proposals were sanctioned between 8th October 2014 and 6th December 2014 when the Respondent's letter of acceptance of the Concurrent audit reached Complainant Bank only on 22nd December 2014.

- Further, 3 proposals were sanctioned between 6th February (sic. 6th February 2015) and 12th February 2015 which falls outside the alleged period. Hence, as per him, there were only 7 proposals that were sanctioned during the alleged period. He submitted that the primary responsibility of evaluation of loan proposal rest with the bank officials. The concurrent auditor could not be expected to verify the correctness of each and every ITRs submitted by the prospective borrowers with the bank. He argued that similar circumstances be considered for extraction of CIBIL report, which as per him was the duty of the bank officials and concurrent auditors, had no role in sanctioning process or doing a forensic investigation of the documents submitted by the prospective borrowers. As regards MOTD, the concurrent audit period of Respondent was too short, and the MOTD was a procedure, which take time, depending on various factors.

5. The Committee noted that before considering the merits of the matter, it is important to consider the preliminary plea of the Respondent regarding his presence for limited period for conducting the concurrent audit of the Bank. It is noted that the Complainant has brought on record an abstract of its record - the Monthly Payment Approval Register of Chennai Main Branch for the period from Oct-2014 to June-2015 showing that during the said period the Respondent firm had conducted concurrent audit for which the payment was duly made to it. It is noted that the Respondent had pleaded that tenure of Concurrent Audit was limited to only 41 days and therefore he could not be made liable for the irregularities surfaced during Special Investigation of Complainant Bank. However, on consideration of the Monthly Payment Approval Register of Chennai Main Branch for the period from October 2014 to June 2015, it was noted that the Respondent had conducted concurrent audit of Complainant Bank's branch for the period October 2014 till June 2015 and had raised monthly bills of Rs. 15,000/- each and the date of payments was also mentioned in respective columns. The Committee, considering the said record, examined the Counsel for the Respondent and sought evidence to substantiate that the tenure of his concurrent audit was terminated in January 2015 to which the Respondent for Counsel pointed towards the copy of the

Complaint wherein the alleged period of irregularities was stated to be from Oct 2014 to Jan 2015. It was viewed that the period of alleged period could not be considered as evidence of his limited period of audit. Further, it was noted that bank records maintained in ordinary course of business are admitted as evidence under Section 4 of the Bankers' Book of Evidence Act, 1891, which reads as follows:

"Section 4 - Mode of proof of entries in bankers' books - Subject to the provisions of this Act, a certified copy of any entry in a banker's book shall in all legal proceedings be received as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise."

Similar principles have been laid down under Sec 34 of Indian Evidence Act, 1872. Accordingly, the Committee viewed that the documentary evidence brought on record by the Complainant Bank clearly indicate that the Respondent had conducted the concurrent audit during the period October 2014 to June 2015 i.e. 9 months whereas the Director (Discipline) has opined only in respect of the loans that were sanctioned by the Bank during the period Oct 2014 to Jan 2015. Accordingly, the plea of the Respondent that he could not be held liable for irregularities occurred on account of his limited period of appointment was found to hold no merits and decided to consider the matter on merits.

6. With respect to the second plea of the Respondent that bank officials were required to conduct enquiries and verify the genuineness of the ITRs/ partnership deeds of the borrower(s), existence of business units, verification of sale deed through certified copy from Sub Registrar Office etc., the Committee viewed that verification of documents based on which loans were being sanctioned was an underlying responsibility of a concurrent auditor. The Committee noted that as per engagement letter dated 3rd November, 2014 (D-15 to D-18) issued to Respondent firm by the Complainant Bank

which was duly accepted by Sh. J. Singh on behalf of the Respondent Firm vide letter dated 8th December, 2014 (D-11 to D-14) the following terms were expected to be complied with by the Respondent firm while conducting concurrent audit:-

"23. You have to carry out Physical verification of the properties mortgaged to the bank of at least 25% of the properties mortgaged every quarter (by rotation)." (D-17)

"26. You should verify all advances related documents; including insurance policies & obtaining of Post Dated Cheques (PDCs) wherever applicable sanctioned/ disbursed during the month as per terms of sanction and issue a certificate after verification." (D-17)

Further, as per Do's and Don'ts Statement for Concurrent Auditors under Do's column, the Respondent has agreed to the terms that *"We shall – (1) do pre concurrent audit study of the branch/ department for getting all relevant information and off site surveillance reports of the auditee."* In case, it came across any fraudulent activity then it was bound to report the same when the said engagement letter stated as below:

"10. Whenever you come across any serious irregularity or transactions involving malafides, corrupt practices and gross indiscipline or anything susceptible to fraud, you have to draw a Flash/ Special Report immediately and forward a copy thereof to the concerned Zonal Manger, Circle Head, Field Inspectorate and Inspection Department, Head Office (in case of EL & VL banches), pending submission of regular concurrent audit report.

However, in case of detection of fraudulent transactions involving malafides, corrupt practices and gross indiscipline or anything susceptible to fraud, the same should not be included in regular report but should be immediately reported by a special report to the controlling offices and the Branch Manager (unless the Branch Manager is himself suspected to be

involved). A copy of the report should also be sent to Inspection Department, Head Office in case of EL & VL branches.” (D-16)

6.1 It was noted that in reported cases of discrepancies, observations included loans sanctioned on the basis of fake ITR/partnership deeds/ sale deeds, it was viewed that identifying fake rubber stamp on ITRs or verifying the genuineness of ITR returns/partnership deeds/ sale deeds being produced with loan documents could not be expected to be identified by a concurrent auditor. However, the Concurrent auditor is expected to be vigilant while conducting audit. In any case, it was noted that, in extant case, the charges raised against the Respondent was highlighted separately and primarily pertained to his failure to report the gross irregularities committed by the branch officials by not creating EMTD/ MOTD, CERSAI/ PDIR etc. while sanctioning various loan proposals particularly Home Loans & Car Loans in his monthly concurrent audit reports. Moreover, it was noted that the Respondent was also alleged to have failed in verifying the CIBIL reports with respect to home loan as well as car loan or availability of PDCs (Post Dated Cheques). It was viewed that considering the terms of his engagement, it is amply clear that he was expected to conduct verification of loans being sanctioned during the tenure of his concurrent audit based on documents available on record viz. whether title deeds & supporting documents were obtained as per the legal opinion & valid EMTD was created, whether certified copy of the original title deed obtained and compared with original title deeds properties mortgaged to Bank, whether proper documents complete in all respects for each loan account was obtained, whether loans were sanctioned after generating the CIBIL report and considering the same, whether vehicle against which loan was given was sufficiently insured etc. Accordingly, the Respondent, being concurrent auditor, was required to adopt substantive audit procedures to verify if loans being sanctioned were backed by proper documents.

6.2 It was viewed that considering the terms of his appointment, he could not escape from his professional responsibility by stating that he was not in position to question the

documents when borrowers eligibility criterion were duly examined by the bank officials. It was viewed that as per terms of his appointment, he was required to conduct audit independently rather than relying on the work done by the staff of the Bank. In fact, he was duty bound to report if the observed discrepancies was rectified otherwise he was required to report them at various levels. Thus, in light of above, the Committee was of the considered view that the Respondent had not carried out his professional duties duly the alleged period of audit and for the said laxity, the Committee was of the view that the Respondent is Guilty of Professional Misconduct.

7. Thus, in light of above, the Committee was of the considered view that the Respondent had not carried out duties assigned to him being concurrent auditor of Complainant Bank on account of which fraud perpetrated in the Branch remained undetected. Such casual approach adopted by the Respondent was highly unbecoming of the Chartered accountant and for the said laxity; the Committee was of the view that the Respondent is **Guilty** of Professional and Other Misconduct under Item (7) of Part-I of Second Schedule and Item (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949.

Conclusion:-

9. Thus in conclusion, in the considered opinion of the Committee, the Respondent is **GUILTY** of Professional as well as Other Misconduct falling within the meaning of Item (7) of Part-I of Second Schedule and Item (2) of Part-IV of First Schedule to the Chartered Accountants Act, 1949.

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

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

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

[PR-21/16-DD/115/2016/DC/1485/2021]

Sd/-
[CA. Vishal Doshi]
Member

Sd/-
[CA. Sushil Kumar Goyal]
Member

Date: 7th February, 2023
Place: New Delhi



प्रमाणित सत्य प्रतिलिपि / Certified true copy

सीए. ज्योतिका ग्रोवर / CA. Jyotika Grover
सहायक सचिव / Assistant Secretary
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