

THE BOARD OF DISCIPLINE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT

ICSI/DC: 148/2012

Date of Decision: 6<sup>th</sup> January, 2015

Shri Radhakishan B Ruchandani

....Complainant

Vs.

Shri Dinesh V Gohil, FCS-3784, (CP No. 2206)

.... Respondent

ORDER

1. The Board of Discipline on 5<sup>th</sup> September, 2014 had noted that despite having been given ample opportunities, the Respondent did not appear before it. The Board considered the material on record and concluded that the Respondent is 'Guilty' of Professional Misconduct for contravening Clause (8) of Part I of the First Schedule of the Company Secretaries Act, 1980 as he had issued Compliance Certificates to M/s. Bee CeeLene Textile Mills Pvt. Ltd., for the year 2006, 2007, 2008 and 2009 without ensuring as to whether the previous incumbent had received his intimation before taking up the said assignment. In the instant case, the Respondent has stated to have sent the communication to Shri Dhiren R Dave, the previous incumbent before taking the assignment but Shri Dhiren R Dave has denied to have received any such communication from the Respondent in this regard. The Board noted that the Respondent has not submitted any proof of delivery for such communication to Shri Dhiren R Dave. The Board therefore felt that mere posting the letter by the Respondent is not sufficient compliance. Further, there is no authentic proof of dispatch and at the same time, acknowledgement by the addressee is essential. The Board thereafter, decided to afford an opportunity of being heard to Mr. Dinesh V Gohil, FCS-3784 (CP No. 2206), the Respondent before passing any order under Section 21A (3) of the Company Secretaries Act, 1980. Accordingly, a copy of the order dated 19<sup>th</sup> December, 2014 passed by the Board of Discipline was sent to the Respondent vide letter dated



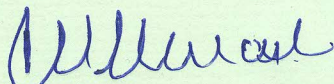
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19<sup>th</sup> December, 2014 and he was called upon to appear before the Board on 6<sup>th</sup> January, 2015.

2. On 6<sup>th</sup> January, 2015, the Board of Discipline noted that the Respondent has neither appeared before it nor any communication has been received despite service of notice. The Board also noted that it has already held the Respondent is 'Guilty' of Professional Misconduct for contravening Clause (8) of Part I of the First Schedule of the Company Secretaries Act, 1980 as he had issued the Compliance Certificates to M/s. Bee CeeLene Textile Mills Pvt. Ltd., for the year 2006, 2007, 2008 and 2009 without ensuring as to whether the previous incumbent had received his intimation before taking up the said assignment. The Board also brought on record that the Board is not expressing any opinion on the records of the company since the matter pertaining to the records of the company is *sub-judice* before the Hon'ble CLB, Mumbai. The Board only reserved its decision on the issue of non- intimation to the previous incumbent by the Respondent before taking up the said assignment. The Board also noted that despite giving ample opportunities, the Respondent has not appeared before it.
3. We, after considering the material on record and in the totality of the issues involved in the matter, pass the following order:

- (i) Fine of Rs. 15,000/-.

The aforesaid fine is to be paid by the Respondent within 30 days of receipt of the order by him.

  
(Anil Murarka)  
Member

  
(P. K. Mittal)  
Presiding Officer

Date: 18<sup>th</sup> January, 2015

