

**THE BOARD OF DISCIPLINE
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA
IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT
UNDER THE COMPANY SECRETARIES ACT, 1980**

DC/270/2014

Order reserved on: 7th July, 2017

Order issued on : 26th September, 2017

Mr. Praveen Kumar Mundra

.....Complainant

Vs

Ms. Forum K Gandhi, FCS-5745 (CP No 5104)

..... Respondent

Present:

Mrs. Meenakshi Gupta, Director (Discipline)

FINAL ORDER

1. The Board of Discipline examined the Complaint, Written Statement, Rejoinder, prima-facie opinion of the Director (Discipline).
2. The Board of Discipline noted the following: -

(iv) The Complainant has *inter-alia* alleged that-

- a) The Respondent has issued a Compliance Certificate for the year ended March 31, 2011 in respect of SCL industries Ltd and Para 13(1) of the aforesaid Certificate indicates that there was no allotment/ transfer of securities, during the financial year under scrutiny.
- b) The Respondent has signed and certified the Profit & Loss and Balance Sheet of the SCL Industries for the year ended March 31, 2011 by verifying that they are signed by Mr. Sharan Agarwal and Mrs. Neeta Agarwal, Directors of the Company. By name Ms. Neeta Agarwal is not the Director of the Company as per the Ministry of Corporate Affairs site, Ms. Neeta Agarwal is the same lady named as Ms. Neeta Nikhil Nawathe.



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- c) There was no proper quorum of Board of Directors in the Board Meeting held after May 2011 in respect of SCL Industries Ltd. Out of four directors, Mr. Subash Agrawal & his wife Mrs. Durga Devi Agrawal has not attended any Board Meeting after May 2011, due to resignation as per letter submitted by both of them to the Registrar of Companies, Mumbai on December 24, 2013. Further, Mr. Sharan Shaun Agrawal, being a resident of United Kingdom, did not attend meeting of Board in India on September 01, 2011 (Date of passing of financial statement).
- ii) The Respondent denied all the allegations levied against him and contended that: -
- f) The transmission of shares was approved in the meeting held on May 24, 2011, which is outside the scope of the audit period.
- g) Mrs. Neeta Nawathe is wife of Mr. Nikhil Nawathe, who also uses the surname Agarwal for all purposes. Hence at all places her name is mentioned as Ms. Neeta Nawathe alias Neeta Agarwal. Since her PAN and all documentary evidences are in the name of Ms. Neeta Nawathe, her DIN bears the same name.
- h) The resignations Mr. Subhash Agarwal and Mrs. Durga Devi Agarwal were filed with ROC on December 24, 2013 and Mr. Sharan Agarwal did not attend meeting held on September 01, 2011 as he was not in India. She responded that the above period was outside the scope of her audit period for the purpose of Compliance Certificate.
3. The Board of Discipline considered the *prima-facie* opinion dated 15th June, 2017 in the complaint of professional or other misconduct filed by Mr. Praveen Kumar Mundra against Ms. Forum K Gandhi, FCS-5745 (CP No 5104) under sub-section (3) of Section 21 of the Company Secretaries Act, 1980 (the Act) wherein the Director (Discipline) is *prima facie* of opinion that the Respondent is "Not guilty" of Professional or other misconduct under the Company Secretaries Act, 1980.

4. The Board of Discipline also noted the following observations of the Director (Discipline) in this complaint: -

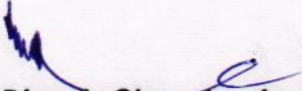


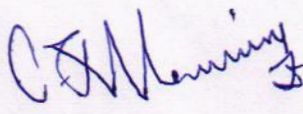
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- h) Since the transmission of shares was approved at the Board meeting of SCL Industries Ltd held on May 24, 2011 and since the Practicing Company Secretary has been appointed by the Company to issue the Compliance Certificate for the year ended March 31, 2011, the said transmission will not be covered within the purview of the Compliance Certificate issued as at March 31, 2011. Therefore, the allegation made by the Complainant is not relevant.
- i) As per PAN and other documentary evidence, the allegation made by the Complainant is not relevant as the reference to Balance Sheet of the Company relates to the financial year ended March 31, 2011 which was beyond the scope of the Compliance Certificate issued by the Respondent for the financial year ended March 31 2011. However, the Respondent has not admitted or rebutted that she has signed and certified the relevant form filed along with the Balance Sheet and Profit and loss Account with the Registrar of Companies. Accordingly, it is assumed that since she has not signed and certified the alleged Balance Sheets then she may not have done any professional or other misconduct.
- j) Since the resignation(s) were submitted by Mr. Subhash Agarwal and Mrs. Durga Devi Agarwal to ROC on December 24, 2013 and also allegation regarding absence of Mr. Sharan Agarwal at the Board meeting held on September 01, 2011, would be outside the scope of the audit period for the purpose of Compliance Certificate issued by Respondent.
5. **The Board of Discipline at its meeting held on 7th July, 2017, after considering the aforesaid observations, material on record, prima-facie opinion of the Director (Discipline) and all the facts and circumstances of the case, agreed to the prima-facie opinion of the Director (Discipline), that the Respondent is "Not Guilty" of Professional or other misconduct under the Company Secretaries Act, 1980.**


CS Dinesh Chandra Arora
Member


CS C Ramasubramaniam
Member


CS Ashish Doshi
Presiding Officer

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