

BEFORE THE BOARD OF DISCIPLINE
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

ICSI/DC: 283/ 2015

In the matter of complaint of professional or other misconduct filed by M/s. Bretton Woods Finlease Limited., against Shri Manish Durga, ACS-30291 (CP No.12351).

Date of decision: 10th March, 2015

Coram:

Ahalada Rao V	Presiding Officer
Vineet K Chaudhary	Member
Sutanu Sinha	Member

ORDER

1. An information dated 3rd January, 2015 was received from one M/s. Bretton Woods Finlease Limited., through Shri Brijender S. Deswal (hereinafter referred to as the 'Complainant') against Shri Manish Durga, ACS-30291 (CP No.12351) (hereinafter referred to as the 'Respondent').
2. Pursuant to Rule 7 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 (the Rules) read with the Company Secretaries Act, 1980, the Complainant was vide letter dated 6th January, 2015 asked as to whether he would like to file the complaint in Form – I along with the requisite fees.
3. Thereafter, the Complainant filled a complaint in Form I vide letter dated 10th January, 2015 against Shri Manish Durga, ACS-30291 (CP No.12351). A letter dated 14th January, 2015 was sent to the



Complainant asking him to rectify the defect in the complaint. A letter dated 20th January, 2015 was received from the Complainant along with the complaint in Form – I after rectifying the defects.

4. The Complainant in his complaint has *inter-alia* alleged that the Respondent has misconducted on account of non-compliance of statutory requirements of his Group of companies for F.Y. 2012-13. The Complainant further alleged that the Respondent has used abusive language and threatened the Chairman of the company.
5. Pursuant to sub-rule (3) of rule 8 of the Rules, a copy of the complaint was sent to the Respondent *vide* letter dated 28th January, 2015 calling upon him to submit the written statement. A letter dated 13th February, 2015 was received from the Complainant *inter-alia* informing that the dispute has been amicably settled with the Respondent and requested to dispose-off the complaint as withdrawn. The Respondent has also submitted the said letter dated 13th February, 2015 of the Complainant *vide* letter dated 18th February, 2015.
6. The relevant provisions contained in the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 governing withdrawal of the complaint are as under:

Section 21 (5) of the Company Secretaries Act, 1980:

"Where a complainant withdraws the complaint, the Director (Discipline) shall place such withdrawal before the Board of Discipline or as the case may be, the Disciplinary Committee, and the said Board or Committee may, if it is of the view that the circumstances so warrant, permit the withdrawal at any stage."



Three handwritten signatures in blue ink are located at the bottom right of the page. The first signature is the most legible, appearing to be "J. D. Singh". The second and third signatures are more stylized and less legible.

Rule 6 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007:

"The Director, on receipt of a letter of withdrawal of a complaint by the complainant shall place the same before the Board of Discipline or the Committee, as the case may be, and the Board of Discipline or the Committee, as the case may be, may, if it is of the view that the circumstances so warrant, permit the withdrawal, at any stage, including before or after registration of the Complaint.


Provided that in case, the Director has not yet formed his prima facie opinion on such a complaint, he shall place the same before the Board of Discipline, and the Board of Discipline may, if it is of the view that the circumstances so warrant, permit the withdrawal".

7. The Board of Discipline also noted that in the instant case, the Director (Discipline) is yet to form his prima-facie opinion.
8. We after considering the material on record; vis-a-vis the provisions of the Company Secretaries Act, 1980 and the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 supra governing withdrawal of a complaint; permit withdrawal of the complaint against the Respondent and close the matter.

Accordingly, the complaint stands disposed-off.


(Sutanu Sinha)
Member


(Vineet K Chaudhary)
Member


(Ahalada Rao V)
Presiding Officer

13 APR 2015

