

**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**

ICSI/DC/380/2017

Order reserved on : 27<sup>th</sup> February, 2018

Order issued on : 22<sup>nd</sup> March, 2018

**Rajasthan Ex-Servicemen Corporation Limited (REXCO)  
(Through Brig. Ved Prakash Kashyap )**

.... Complainant

Vs.

**Shri Manish Sharma, FCS-4750, CP No. 6703**

....Respondent



**Present:**

Mrs. Meenakshi Gupta, Director (Discipline)

**FINAL ORDER**

1. A Complaint dated 18<sup>th</sup> February, 2017 has been received in Form I under Section 21 of the Company Secretaries Act, 1980 ('the Act') read with sub-rule (1) of Rule 3 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of cases) Rules, 2007 ('the Rules') by Brig. Ved Prakash Kashyap (hereinafter referred to as 'the Complainant') against Shri Manish Sharma, FCS-4750 (CP NO. 6703) (hereinafter referred to as 'the Respondent').
2. The Complainant in his complaint has *inter-alia* stated that the Respondent was appointed as a retainer by the Complainant to deal with secretarial matters/legal compliances of the Company. The Respondent was associated with the Company since its inception till 31<sup>st</sup> March 2016. It has been alleged that he has not completed pending work in time and due to his negligence the company had to pay heavy penalty of Rs. 1,64,400/- (One Lakh Sixty Four Thousand Four Hundred only) in filing various e-forms with the Ministry of Corporate Affairs and some of the e-forms were still awaiting to be filed. Due to the non-professional behavior of the Respondent, the Board of Directors of the Company had decided to terminate his association with the Company in the Board



Meeting held on 29<sup>th</sup> March, 2016 and the Respondent was directed to complete the pending tasks.

3. The Respondent in his written statement dated 10<sup>th</sup> April, 2017 has *inter-alia* stated that he apprised the company through various emails about pending filings and various statutory disclosure(s), documents/information for enabling the uploading of the pending e-forms pertaining to the Company on the MCA portal.
4. The Complainant in his Rejoinder dated 27<sup>th</sup> April, 2017 has reiterated his allegations made in Complaint and *inter-alia* stated that he was handed over the amount of Rs. 2,00,355/- (Rupees Two Lakh Three Hundred & Fifty Five only) by cheque, he filed some of the forms and kept the balance amount with him which he later used for filing of forms after repeated requests. It is further alleged that the Respondent never apprised the company that a whole time secretary was required to be appointed until a Show cause notice was received from the Registrar of Companies.
5. The Board of Discipline in its meeting held on 27<sup>th</sup> February 2018 considered the prima-facie opinion dated 6<sup>th</sup> January 2018 of the Director (Discipline) along with all the material on record) wherein she is prima facie of opinion that the Respondent is "**Not Guilty**" of professional or other misconduct under any of the provisions of the Act and made the following observations :
  - (i) that the error of non-filing of e-form does not rest on the Respondent Company Secretary as he being Retainer had exercised due care in apprising the Company Management of the delays caused in filing
  - (ii) the delay in filing was primarily due to non-availability of requisite information/documents required for filing of e-forms
  - (iii) that any discrepancy in filing of forms has not been alleged by the Complainant
  - (iv) the company has blamed the Respondent for not advising the company to appoint a whole time company secretary without placing on record any reference made to him in this regard.
  - (v) that a complete statement of fee for e-forms along with additional fee applicable was sent by the Respondent to the Complainant for its information and necessary action.
  - (vi) that the fact of late filing was discussed in the Board meetings of the Company dated 23<sup>rd</sup> September, 2014 and 4<sup>th</sup> August, 2015 and the Complainant Company had sent letters under the signature of Mr. V. P. Kashyap, Managing Director to all the Directors who had not provided the required statutory disclosures /documents /information



*[Handwritten signature]*  
*[Handwritten signature]*  
*[Handwritten signature]*

like identity proof and address proof required for obtaining Directors identification number and or Digital signature certificate.

6. The Board of Discipline after considering the material on record, prima-facie opinion of the Director (Discipline), all the facts and circumstances of the case and observation made in para 5 above agreed to the prima-facie opinion of the Director (Discipline), that the Respondent is **"Not Guilty"** of Professional or other misconduct under the Act, for the acts and/or omissions alleged by the Complainant and accordingly decided to close the complaint.



**CS Dinesh Chandra Arora**  
Member



**CS C Ramasubramaniam**  
Member



**CS Atul H Mehta**  
Presiding Officer

