

**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/407/2017

Order reserved on: 22nd June, 2019Order issued on : 12th August, 2019

Serious Fraud Investigation Office
(Through Shri Manoj Kumar Sahoo, Addl. Director)
Vs

.....Complainant

Ms. Manju Vohra, ACS-25661

.....Respondent

CORAM:

CS Deepak Kumar Khaitan, Presiding Officer
CS Manish Gupta, Member
CS Ashok Kumar Dixit, Member

Present:

Mrs. Meenakshi Gupta, Director (Discipline)
Shri Gaurav Tandon, Assistant Director

ORDER

1. A complaint dated 16th August, 2017, in Form-'I' was filed by Serious Fraud Investigation Office (SFIO) through Shri Manoj Kumar Sahoo, Additional Director, SFIO (hereinafter referred to as 'the Complainant'), against Ms. Manju Vohra (ACS-25661), (hereinafter referred to as 'the Respondent') 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').
2. That the Complainant in his complaint has *inter-alia* stated that the Complainant investigated into the affairs of M/s. Vaishnavi Corporate Communications Pvt. Ltd. (VCCPL) and its group companies. The Complainant further stated that the Respondent was working as the whole time Company Secretary of VCCPL during the period 01.12.2010 to 31.12.2011 and was looking after the Secretarial Compliance of all the Companies in the Vaishnavi group. The Complainant further stated that during the course of Investigation, it was revealed that the balance sheet and profit & loss accounts of VCCPL were received back from the auditor in the same meeting in which their drafts were approved by the directors and sent for audit. Thereafter, in the very same meeting, the auditor's report has been considered by the Board and the Director's report thereon has been signed. By completing the entire process of finalization of accounts in single day more specifically within few hours, year



after year, cannot be said to be incidental, rather intentional and wilful, so as to only complete the formalities without adhering to the norms of Corporate Governance. That the Respondent for the period 2010-11, in her statement recorded on oath dated 7th August, 2013 has admitted that the company was inviting the auditor in the Board Meeting as a special invitee and auditor used to be present in the Board Meetings though his presence was not recorded. The Complainant further stated that as the Respondent was a signatory to the Balance Sheet of the Company during her tenure, which have not made full disclosures as required by the Accounting Standards, Schedule VI of the Companies Act, 1956 and hence do not reflect the true and fair view of the financial position of the company. As signatory to the balance sheets, she was duty bound to ensure that they are prepared in compliance of the provision of the Companies Act and has failed to exercise due diligence in discharging her professional duties.


3. On the other hand, the Respondent in her Written Statement dated 29th September, 2017 has *inter-alia* stated that SFIO after its investigations had filed criminal prosecutions in all the nine companies investigated by them as per their Report dated 21st January, 2014. Further, out of the nine companies, SFIO had filed prosecution before the ACMM (Spl. Acts), Central District, Tis Hazari, Delhi in respect of eight companies except M/s. Neucom Consulting Private Limited. The Hon'ble ACMM vide its Orders dated 28th April, 2017 has discharged all the accused (including the Respondent in Vaishnavi Corporate Communications Private Limited wherein she was Company Secretary for the period of 1st December, 2010 to 31st December, 2011) due to compounding of the offences by the Hon'ble National Company Law Tribunal. Further, this compounding and discharge by the Hon'ble ACMM is well within the knowledge of SFIO because the Hon'ble ACMM passed orders on 28th April, 2017 after recording the statements of the Complainant, i.e. SFIO.
4. The Complainant was asked to submit his Rejoinder. However, as per record, no Rejoinder has been received from the Complainant.
5. The Director (Discipline) after examining all the material on record and considering all the facts and circumstances of the matter, formed prima facie opinion dated 30th May, 2019 that the Respondent is '**Not Guilty**' of professional misconduct under First and/or Second Schedule to the Act at it has been observed that the Respondent was the Company Secretary of M/s. Vaishnavi Corporate Communications Pvt. Ltd., for the period of 1st December, 2010 to 31st December, 2011. It is further observed that Hon'ble ACMM vide its Orders dated 28th April, 2017 has discharged all the accused (including the Respondent in the matter of Vaishnavi Corporate Communications Private Limited wherein she was Company Secretary) by compounding of the offences by the Hon'ble National Company Law Tribunal, vide order dated 24th January, 2017 (obtained from website of NCLT, Delhi). It may further be mentioned that there is no legal impediment in holding the Board Meeting on the same day for approval of draft accounts and submission to auditors for their approval and taking the audited accounts. Even otherwise, the Complainant could not establish the particular rule / section which stands violated by the Respondent in her individual / professional capacity.

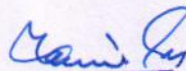


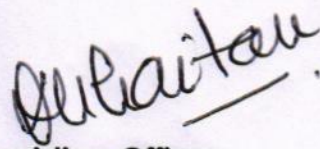
6. The Board of Discipline after considering the material on record, *prima-facie* opinion of the Director (Discipline) and all the facts and circumstances of the case, agreed with the *prima-facie* opinion of the Director (Discipline), that the Respondent is **"Not Guilty"** of Professional or other misconduct under the Company Secretaries Act, 1980 for the acts and/or omissions alleged by the Complainant in the complaint as there is no legal impediment in holding the Board Meeting on the same day for approval of draft accounts and submission to audited for their approval and then taking on record the final accounts. Even otherwise, the Complainant could not establish the particular rule/section which stands violated by the Respondent in her individual/ professional capacity. It may be mentioned that the auditor, whenever attends the meeting, is not mandatorily required to list in the attendee who attended the meeting, therefore, his presence was not recorded in the Board Meeting. As per 193(5) of the Companies Act, 1956, the Chairman shall exercise an absolute discretion in regard to the inclusion or non-inclusion of any matter in the minutes on the ground specified in this sub-section. Further, it is the obligation of the auditor of the company to audit the Books of Accounts as appointed under Section 224 of the Companies Act, 1956. It is further observed that Hon'ble ACMM *vide* its Order dated 28th April, 2017 has discharged all the accused (including the Respondent in the matter of Vaishnavi Corporate Communications Private Limited wherein she was Company Secretary) by compounding of the offences by the Hon'ble National Company Law Tribunal, *vide* order dated 24th January, 2017 (obtained from website of NCLT, Delhi).

Accordingly, the Complaint is closed and stands disposed off.




Member


Member


Presiding Officer