

**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/428/2018**

**Order reserved on: 31<sup>st</sup> July, 2018**

**Order issued on: 31<sup>st</sup> July, 2018**

**CS Jitesh Gupta, FCS-3978, CP-2448**

**....Complainant**

**Vs.**

**CS Yashwant Kumar Gupta, ACS-15154, CP-15119**

**....Respondent**

**FINAL ORDER**

1. A complaint dated 23<sup>rd</sup> March, 2018 in Form 'I' was filed 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 CS Jitesh Gupta (hereinafter referred to as 'the Complainant') against CS Yashwant Kumar Gupta (hereinafter referred to as 'the Respondent').
2. The Complainant has inter alia has accepted the position of Practising Company Secretary in M/s. PEE AAR Securities Limited for certification and signing of Annual Return for the year 2016-17 without prior written communication to the Complainant. The Complainant further alleged that the Respondent has also accepted the secretarial work of group companies of M/s. PEE AAR Securities Limited.
3. Pursuant to sub-rule (3) of Rule 8 of the Rules read with the Act, a copy of the complaint was sent to the Respondent vide letter dated 24<sup>th</sup> April, 2018 calling upon him to submit the written statement, however, the same was returned back to us as undelivered. A copy of the Complaint was again sent to the Respondent vide letter dated 2<sup>nd</sup> May, 2018 calling upon him to submit the written statement, which was delivered to him on 3<sup>rd</sup> May, 2018.
4. In the meantime, a withdrawal letter dated 12<sup>th</sup> June, 2018 was received from the Complainant *inter-alia* stating that he wants to withdraw the instant complaint filed against the Respondent.
5. 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 the withdrawal of the complaint are as under:

**Section 21 (5) of the Act:**

"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."

**Rule 6 of the Rules:**

"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.

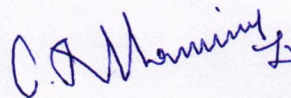
Provided that in case, the Director has not yet formed his *prima facie* opinion on such a complaint, he shall place the same before the Board of Discipline, and the Board of Discipline may, if it is of the view that the circumstances so warrant, permit the withdrawal".

6. The Board of Discipline observed that in the instant complaint, the Director (Discipline) has not yet formed her *prima facie* opinion in the matter.
7. The Board of Discipline after considering the material on record; vis-a-vis the provisions of the Act and the Rules *supra* governing withdrawal of a complaint; permitted the withdrawal of this complaint against the Respondent and closed the matter.

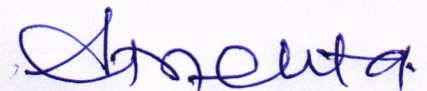
**Accordingly, the complaint stands disposed-off.**



CS Dinesh Chandra Arora  
Member



CS C Ramasubramaniam  
Member



CS Atul H Mehta  
Presiding Officer