

**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/429/2018

Order reserved on: 28th February, 2019

Order issued on 26 APR 2019

Shri Jitesh Gupta, FCS-3978, CP-2448

....Complainant

Vs

Shri Manoj Kumar Jain, FCS-5832, CP-5629

....Respondent

CORAM:

Shri Deepak Kumar Khaitan, Presiding Officer

Shri Manish Gupta, Member

Shri Ashok Kumar Dixit, Member

Present:

Mrs. Meenakshi Gupta, Director (Discipline)

Shri Gaurav Tandon, Assistant Director, Disciplinary Directorate

ORDER

1. The Board of Discipline considered the following: -

a) A complaint dated 23rd March, 2018 in Form 'I' was filed by Shri Jitesh Gupta, FCS-3978, CP-2448 (hereinafter referred to as 'the Complainant') against Shri Manoj Kumar Jain, FCS-5832, CP-5629 (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'). The Complainant has inter-alia alleged that the Respondent has violated Item (8) of Part I of First Schedule to the Company Secretaries Act, 1980 as he has accepted the position of Practising Company Secretary in the M/s Medicamen Biotech Limited for conducting Secretarial Audit and issuing Secretarial Audit Report for FY 2015-16 without prior written communication to the Complainant.

b) Pursuant to sub-rule (3) of Rule 8 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct



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THE BOARD OF DIRECTORS
IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT
UNDER THE COMPANY SECURITIES ACT (1985)

10/23/2018

Order issued on February 2, 2017

Order issued on February 2, 2017

Order issued on February 2, 2017

Order issued on February 2, 2017

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The Board of Directors of the Company has considered the complaint of professional or other misconduct under the Company Securities Act (1985) filed against the respondent, [Name], and has concluded that the respondent has committed professional or other misconduct under the Company Securities Act (1985). The Board of Directors has ordered that the respondent be suspended from the practice of the profession for a period of [Duration].

This order is made pursuant to the powers conferred upon the Board of Directors by the Company Securities Act (1985) and the Company's Memorandum and Articles of Association.

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and Conduct of Cases) Rules, 2007 ('the Rules') read with the Company Secretaries Act, 1980 ('the Act'), a copy of the complaint was sent to the Respondent calling upon him to submit the written statement. However, no written statement has been received from the Respondent.

- c) In the meantime, a withdrawal letter dated 11th February, 2019 was received from the Complainant wherein he has inter-alia stated that he wants to withdraw the complaint and does not wish to pursue the case, since the Respondent has realized his mistake and conveyed his apology to him.
- d) 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 reads 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."

- e) The Board of Discipline observed that in this Complaint, the Director (Discipline) has not yet formed her *prima facie* opinion.

2. The Board of Discipline after considering the material on record and the facts and circumstances in the case, decided to permit the withdrawal



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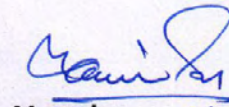
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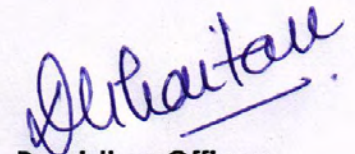
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of the complaint under Rule 6 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 read with Section 21 (5) of the Company Secretaries Act, 1980.

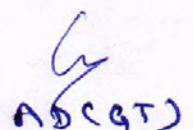
3. Accordingly, the withdrawal of Complaint No. DC/429/2018 is hereby permitted and the complaint stands closed since withdrawn.


Member


Member


Presiding Officer




AD(CT)

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