

**THE DISCIPLINARY COMMITTEE
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA
IN THE MATTER OF INFORMATION OF PROFESSIONAL OR OTHER MISCONDUCT**

ICSI/DC/N/2016

Order Reserved on: 26th June, 2019

Order issued on: 31 JUL 2019

Shri Prahalad Meena, ROC, NCT of Delhi & HaryanaInformant

Vs.

Shri Deepak Bansal, FCS-3736, CP-7433Respondent

CORAM:

CS Ranjeet Pandey, Presiding Officer
CS Nagendra D Rao, Member
CS B Narasimhan, Member
Mrs. Meenakshi Datta Ghosh, Member (Govt. Nominee)

Present:

Mrs. Meenakshi Gupta, Director (Discipline)
Ms. Anita Mehra, Assistant Director
Respondent in person

FINAL ORDER

1. An Information dated 4th May, 2016 was received 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') from Shri Prahalad Meena, ROC, NCT of Delhi & Haryana (hereinafter referred to as 'the Informant') against Shri Deepak Bansal, FCS-3736 (CP-7433) (hereinafter referred to as 'the Respondent'). The Informant has inter alia alleged that –

- (i) The Respondent has issued the incorrect Compliance Certificate for M/s V-4 Infrastructure Private Limited ('the Company'), without verifying the relevant records of the company and without exercising due diligence.
- (ii) Annual Return of September 2009 shows Shri Rajesh Jindal (HUF) as shareholder with 2,000 shares in M/s V-4 Infrastructure Private Limited.
- (iii) His name is not reflected in the Annual Return of September 2011.
- (iv) These shares were never transferred by Shri Rajesh Jindal (HUF).

2. Allegations against the Respondent are based on available records with Informant as under: -



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Ranjeet Pandey

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- (i) Form 20B was filed vide SRN P87651360 for the Financial Year 2008-09 which shows 2,000 shares in the name of Shri Rajesh Jindal (HUF).
- (ii) Form 20B was filed vide SRN P87741716 for the Financial Year 2009-10 does not contain any list of shareholders, nor details of any shares transferred.
- (iii) Form 20B was filed vide SRN P87741716 for the Financial Year 2010-11 does not show Shri Rajesh Jindal (HUF) as a shareholders of the company.
- (iv) Compliance Certificate for the Financial Year ending on 31st March, 2010 and 31st March, 2011 vide SRN P87693370 and P88475363 respectively state that no transfer of shares took place during the said period.

3. The Respondent in his Written Statement dated 27th March, 2017 has denied the allegations and stated that he had prepared and issued the Compliance Certificates to the Company based on the information provided and records produced before him, and he pointed that he is not having any documentary evidence for the same and on issuance thereof he has not received any communication from the company as regards any factual or other errors therein. The Company after satisfying about the veracity of the Compliance Certificate uploaded the same in Form 66 under the signature of director of the company. He prepared and issued the Compliance Certificates only after verifying the relevant records while exercising due diligence.

4. The Director (Discipline) in the prima-facie opinion dated 27th June, 2018 opined that the Respondent is 'Guilty' of professional misconduct under Item (7) of Part I of Second Schedule to the Company Secretaries Act, 1980 as the Respondent has issued the Compliance Certificates for F.Y ended as on 31st March, 2010 to the Company, stating that no securities were lodged for transfer/ transmission or any other purpose during the year, while several transfer of shares were observed as under: -

- (i) The Respondent has issued two Compliance Certificates to the Company for the Financial Years ending on 31st March, 2010 and 31st March, 2011.
- (ii) Form 20B was filed vide SRN P87651360 for the Financial year 2008-09 in which 2,000 shares was recorded in the name of Shri Rajesh Jindal (HUF).
- (iii) As per the Informant, Form 20B for the financial year 2009-10 does not contain any list of shareholders nor details of any shares transferred. However, the Informant has provided a letter dated 29.08.2014 issued by the Chartered Accountant who had certified said Form 20B wherein the details of shares/Debentures holders as the date of AGM 30th September, 2010 along with details of shares/debentures transfers since date of last AGM 30th September, 2009 is enclosed.



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- (iv) Total 26 transfers has been observed in the aforesaid details of shares/debentures transfers since date of last AGM 30th September, 2009, out of which one was related to the transfer of shares from Shri Rajesh Jindal (HUF) to Shri Lokesh Kumar on 24th July, 2010.
- (v) While in the Compliance Certificate issued by the Respondent for the Financial Years ending on 31st March, 2010, the following has been stated at Point No. 13: -

"13. As per information & explanations provided: -

(i) There has been no fresh allotment of securities during the year. Likewise, no securities were lodged for transfer/ transmission or any other purpose during the year.

...."

5. The Disciplinary Committee on 29th June, 2018 considered the *prima-facie* opinion dated 27th June, 2018 of the Director (Discipline) and decided to proceed further in the matter in accordance with Rule 18 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 read with the Company Secretaries Act, 1980 to finally conclude as to whether the Respondent is Guilty or not in the matter.
6. The Respondent in his Written Statement to the *prima-facie* opinion of the Director (Discipline) vide letter dated 7th September, 2018 has *inter-alia* stated that subject transfer of 2,000 shares purported to be transferred on 24.07.2010 pertaining to Compliance Certificate issued by him for the F.Y. ended as on 31.03.2011 (from 01.04.2010 to 31.03.2011) and not for the F.Y. ended as on 31.03.2010 (from 01.04.2009 to 31.03.2010). In response to a show cause notice issued by the ROC to the Chartered Accountant, it was replied that due to some technical snag in computer system, the list of shareholders and list of transfers could not be uploaded on server of MCA. Further, the Chartered Accountant in response to the aforesaid show cause notice issued to him by ROC has submitted a list of shareholders and list of transfers from his records which shows that there was transfer of 2,000 shares on 24th July, 2010 from Mr. Rajesh Jindal (HUF) to S/Shri Lokesh Kumar, Rajesh Jindal (HUF), complainant to the ROC has also submitted in his complaint to ROC that he has never transferred his 2,000 shares as shown to be transferred in the records submitted by the Chartered Accountant with ROC.
7. The Respondent *vide* letter dated 3rd April, 2019 was called upon to appear before the Disciplinary Committee on 23rd April, 2019.
8. On 23rd April, 2019, the Respondent appeared in person before the Disciplinary Committee and made his submissions. The Disciplinary Committee directed the Director (Discipline) to call documents from the Company viz - (a) copy of Minutes of Board Meeting, wherein the



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transfers of shares in question were approved by the Board of Directors of the Company; (b) copy of Minutes of Board Meeting, wherein the Compliance Certificate for the year 2010 and 2011 issued by the Respondent were considered (c) extract of Share Transfer Register more particularly related to transfers of shares in question and (d) copy of Share Transfer Deeds (front and back both) related to transfers of shares in question, and share transfer deeds to be produced in original before the Disciplinary Committee at the next date of hearing. The Disciplinary Committee further directed the Respondent to submit any supplementary documents in his defence, if any, within 15 days.

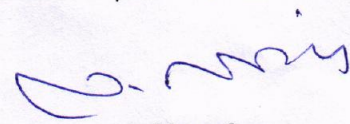
9. The Company was asked to submit the aforesaid documents/information. However, no response is received from the Company. However, the Respondent vide letter dated 29th May, 2019 submitted his defence along with the copy of documents which are already available on records.

10. The Respondent vide letter dated 12th June, 2019 was called upon to appear before the Disciplinary Committee on 26th June, 2019.

11. On 26th June, 2019, the Respondent appeared in person before the Disciplinary Committee and explained his written submissions which had submitted vide letter dated 29th May, 2019. The Respondent submitted that there was a considerable delay in filing of Form 20 B and the list indicating transfers of shares was submitted by the Chartered Accountant later on with the office of ROC which is not available as on date on MCA portal. The Respondent further questioned the veracity of Form 20 B itself based upon which the allegations are made against the Respondent. The Respondent has pointed out discrepancies while calculating holding percentage of Directors or their relatives and holding percentage of bodies corporate.

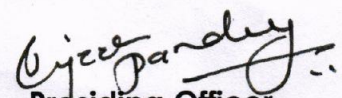
12. After considering all the submissions of the Respondent and in totality of facts and circumstances in the matter, the Disciplinary Committee holds the Respondent 'not guilty' of professional misconduct under the Company Secretaries Act, 1980 as the veracity of Form 20 B in relation to Financial Year 2009-10 itself is in question, based upon which the allegations are made against the Respondent.


Member


Member


Member




Presiding Officer