

BEFORE THE BOARD OF DISCIPLINE
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA
ICSI/DC: 144/2012

In the matter of complaint of professional or other misconduct filed by Shri Ulfat Rai Kapoor against Shri B K Toshniwal, FCS – 1775.

Coram: Sudhir Babu C, Presiding Officer
Sutanu Sinha, Member

ORDER

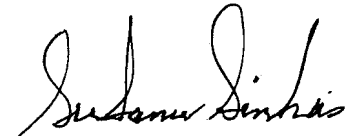
1. A complaint in Form I dated 20th June, 2012 was filed under Section 21 of the Company Secretaries Act, 1980 read with sub-rule (1) of Rule 3 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007 (the Rules) by Shri Ulfat Rai Kapoor (hereinafter referred to as the 'Complainant') against Shri B K Toshniwal, FCS – 1775 (hereinafter referred to as the 'Respondent').
2. The Complainant *inter-alia* alleged that the Respondent has taken the basement of C-764, New Friends Colony, New Delhi on monthly rent for doing his professional activities as a Company Secretary. However, the said basement instead of being used by the Respondent for his professional activities was used by M/s. Oriental Containers Ltd., and other companies for conducting commercial activities.
3. Pursuant to sub-rule (3) of Rule 8 of the Rules, a copy of the complaint was sent to the Respondent *vide* letter dated 21st June, 2012 calling upon him to submit the written statement. The Respondent submitted the written statement dated 21st July, 2012, wherein he denied the averments of the Complainant and *inter-alia* stated that he is employed as a Company Secretary in M/s Oriental containers Ltd., and the said premises has been taken on rent by him for the companies' work. He further stated that the draft of the said Lease agreement was placed before the Board of Directors of M/s. Oriental Containers Ltd., on 17th December, 2009 and the Board had authorised him to sign and execute the same.
4. Pursuant to sub-rule (4) of Rule 8 of the Rules, a copy of the written statement was sent to the Complainant *vide* letter dated 3rd August, 2012 asking him to submit the Rejoinder. The Complainant submitted the rejoinder dated 13th August, 2012.
5. Pursuant to Rule 9 of the Rules, the Director (Discipline) examined the complaint, written statement, rejoinder and other material on record, *prima-facie* opined that the allegations against the Respondent do not come within the realm of the Company Secretaries Act, 1980 and therefore, the Respondent is *prima-facie* not



guilty of professional or other misconduct under the Company Secretaries Act, 1980.

6. The Board at its meeting held on 13th August, 2013 considered the *prima-facie* opinion dated 16th April, 2013 of the Director (Discipline); material on record and agreed with the *prima-facie* opinion of the Director (Discipline) that the Respondent is not 'Guilty' of professional or other misconduct as the matter does not fall within the ambit of the Company Secretaries Act, 1980 and closed the matter.

Accordingly, the complaint stands disposed-off.


(Sutanu Sinha)
Member


(Sudhir Babu C)
Presiding Officer

Date: 13th August, 2013
New Delhi

