BEFORE THE BOARD OF DISCIPLINE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

ICSI/DC: 184/2013

In the matter of complaint of professional or other misconduct filed by Shri M R Kulkarni, FCS–2012 (CP No. 3093) against Mrs. Rohini Haridas , ACS–28861 (CP No. 10635).

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

ORDER

1. A complaint in Form I dated 8th May, 2013 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 Mr. M R Kulkarni, FCS–2012 (CP No. 3093) against Mrs. Rohini Haridas, ACS–28861 (CP No. 10635) (hereinafter referred to as 'the Respondent').

2. The Complainant has *inter-alia* alleged that the Respondent has issued the Compliance Certificates for the year ended 31st March, 2012 to the following companies without giving any prior notice to him:

   - M/s. Magar Engineering Pvt. Ltd.
   - M/s. Kanchan Paper Mills Ltd.
   - M/s. Prachay Auto Parts Pvt. Ltd.
   - M/s. Savera Press Comp Pvt. Ltd.
   - M/s. Radhey Machining Ltd.
   - M/s. Tank Auto Tooling Pvt. Ltd.
   - M/s. Kanak Resorts Pvt. Ltd.
   - M/s. Marathwada Cold Storage Pvt. Ltd.
   - M/s. Yashawant Forging Pvt. Ltd.
   - M/s. Savera Precision Engineering Pvt. Ltd.
   - M/s. Savera Mouldings Pvt. Ltd.
   - M/s. Savera Auto Comps Pvt. Ltd.

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 16th May, 2013 calling upon her to submit the written statement. The Respondent submitted the written statement dated 27th May, 2013.

4. The Respondent in her written statement has *inter-alia* stated that she has not issued the Compliance Certificates to the companies mentioned in the complaint without first communicating with the Complainant. She further stated that she had informed the Complainant about her appointment and requested the Complainant for his objections, if any, on the assignments *vide* letter sent

through Speed Post on 13th July, 2012 and waited for 21 days for reply. The Respondent further stated that she also called the Complainant on his phone 2-3 times for taking his guidance, as the Complainant is a very senior member, but the Complainant never expressed anything regarding NOCs during these telephonic talks.

5. 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 5th June, 2013 asking him to submit the rejoinder. The Complainant submitted the rejoinder dated 28th June, 2013 with certain additional submissions.

6. Pursuant to Rule 9 of the Rules, the Director (Discipline) examined the complaint, written statement, rejoinder and other material on record and prima-*facie* observed that the Respondent in her defence has *inter-alia* stated that she had a meeting with the Complainant on 9th July, 2012 regarding her appointment for issuance of the Compliance Certificates and subsequently she had sent a letter *vide* Speed post to the Complainant on 13th July, 2012. The Respondent has also attached the delivery report of the said letter. Hence, the Respondent took reasonable steps in communicating with the Complainant before issuing the Compliance Certificates, therefore she is not 'Guilty' of professional misconduct under the Company Secretaries Act, 1980.

7. The Board of Discipline at its meeting held on 13th August, 2013 considered the *prima-facie* opinion dated 12th August, 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 misconduct under 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