

BEFORE THE BOARD OF DISCIPLINE
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

ICSI/DC: 203/2013

In the matter of complaint of professional or other misconduct filed by Shri Mukesh Kumar against Shri Amit Vinayak, FCS – 5119

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

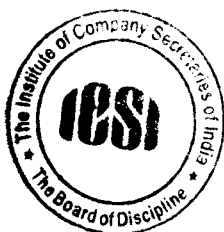
ORDER

1. A complaint in Form-I dated 21st June, 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 Shri Mukesh Kumar (hereinafter referred to as 'the Complainant') against Shri Amit Vinayak, FCS – 5119 (hereinafter referred to as 'the Respondent').
2. Pursuant to sub-rule (3) of Rule 8 of the Rules, a copy of the complaint was sent to the Respondent vide letter dated 2nd July, 2013 calling upon him to submit the written statement.
3. The Complainant vide letter dated 19th July, 2013 *inter-alia* stated that there was a management dispute in the company i.e. M/s. Sai Gold India Enterprises Pvt. Ltd., and the same has been resolved amicably and therefore, the complaint filed by him against Shri Amit Vinayak, FCS – 5119 is recalled and he further stated that he does not want to pursue the complaint further and wants to withdraw the same.
4. 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 Company Secretaries Act, 1980:

"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 Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007:



"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".

5. In the instant case, the Director (Discipline) has not yet formed his *prima-facie* opinion.
6. The Board on 13th August, 2013 considered the material on record; *vis-a-vis* the 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, permitted the withdrawal of the complaint and closed the matter.

Accordingly, the complaint stands disposed-off.


(Sutanu Sinha)
Member


(Sudhir Babu C)
Presiding Officer

New Delhi
Date: 13th August, 2013

