

**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**

Complaint (DF) 07 of 2017

Order reserved on : 30th November 2018

Order issued on : 17 JAN 2019

Shri Mukesh Agarwal and Shri Sumesh AgarwalComplainants

Vs.

Shri Ravishankar Periwal, ACS-42832, CP No. 15885Respondent

CORAM:

Shri Atul H Mehta, Presiding Officer
Shri C Ramasubramaniam, Member
Shri Ashok Kumar Dixit, Member

Present:

Mrs. Meenakshi Gupta, Director (Discipline)
Mrs. Anita Mehra, Assistant Director

FINAL ORDER

1. A complaint of professional or other misconduct in prescribed Form I dated 26th August, 2017 was received from S/Shri Mukesh Agarwal and Sumesh Agarwal (hereinafter referred to as 'the Complainants') against Shri Ravishankar Periwal, ACS-42832, CP 15885 (hereinafter referred to as 'the Respondent') *inter-alia* alleging therein that the Respondent has carelessly certified form MGT-7 of M/s. Ganesh Laxmi Processors Pvt. Ltd for the year 2016.
2. On scrutiny of the said complaint the following defect was observed in the complaint: -
 - (i) Particulars of allegations, background and complete facts of the matter are not provided.
3. Pursuant to sub- rule (5) of Rule 5 of the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007 (the Rules), the Complainants were asked vide letter dated 28th September, 2017 and 21st November, 2017 to rectify the complaint and resubmit within 10 days of receipt of the letter. The same has been duly delivered to the Complainant. However, the rectified Form I was not received from the Complainants.



4. Further, a withdrawal letter dated 12th January, 2018 was received on 22nd January, 2018 from the Complainants *inter-alia* stating that they want to withdraw the complaint dated 26th August, 2017 filed against the Respondent.
5. The Board of Discipline observed Section 21 (5) of the Company Secretaries Act, 1980 and sub-rule 6 of the Rule 6 of the Rules provide 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".

In the instant matter, the Director (Discipline) has not yet formed her *prima facie* opinion.

6. The Board of Discipline in its meeting held on 30th November, 2018 considered the prima-facie opinion dated 15th November 2018 of the Director (Discipline) to permit withdrawal of the Complaint against the Respondent and to close the matter pursuant to the provisions of the Rules and the Act.
7. The Board of Discipline after considering the prima-facie opinion of Director (Discipline), material on record and relevant provisions for withdrawal of Complainant under the Rules and the Act, agreed with the prima-facie opinion of the Director (Discipline) and permitted withdrawal of the complaint against the Respondent. Accordingly, the matter is closed.




Member


Member


Presiding Officer