



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

**ICSI/DC: 137/2012**

**In the matter of complaint of professional or other misconduct filed by Shri Sanjay Kumar Mahapatra, FCS-3448 against Shri A K Reddy, ACS – 21599 (CP No.7843).**

**Coram:** Sudhir Babu C, Presiding Officer  
Umesh H Ved, Member  
Sutanu Sinha, Member

**ORDER**

1. A complaint in Form I dated 15<sup>th</sup> May, 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 Sanjay Kumar Mahapatra, FCS-3488 (hereinafter referred to as the 'Complainant') against Shri A Kumar Reddy, ACS-21599 (CP No.7843) (hereinafter referred to as the 'Respondent').
2. The Complainant had *inter-alia* alleged that the Respondent had issued the Compliance Certificate for the financial year ended 31.03.2011 to M/s. Kamyab Exports Private Limited, M/s. Kamyab Overseas Private Limited and M/s. Kamyab Television Private Limited., without communicating to him previously as he was carrying out the assignment for the said companies.
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 21<sup>st</sup> May, 2012 calling upon him to submit the written statement followed by a reminder dated 20<sup>th</sup> June, 2012. The Complainant *vide* letter dated 27<sup>th</sup> June, 2012 requested not to take any further action as they are in the process of mutual settlement. A letter dated 3<sup>rd</sup> July, 2012 was again sent to the Respondent calling upon him to submit the written statement. The Respondent submitted the written statement dated 18<sup>th</sup> July, 2012.
4. The Respondent admitted that he had failed to intimate to the Complainant about the signing of the Compliance Certificate and has stated that it was accidental omission to communicate with the





Complainant in writing due to busy schedule in filing of the Annual Accounts.

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 24<sup>th</sup> July, 2012 asking him to submit the rejoinder which he submitted *vide* letter dated 3<sup>rd</sup> October, 2012. He *vide* letter dated 10<sup>th</sup> December, 2012 submitted the copies of dishonored cheques. He, *vide* letter dated 3<sup>rd</sup> January, 2013 also requested to expedite the matter.

6. Pursuant to Rule 9 of the Rules, the Director (Discipline) examined the complaint, written statement, rejoinder and other material on record and was of the *prima-facie* opinion that the Respondent has accepted the assignment from the Complainant's clients without first communicating with him in writing which contravenes clause (8) of Part I of the First Schedule of the Company Secretaries Act, 1980. Moreover, the Respondent has admitted that he had failed to intimate to the Complainant and it was accidental omission on his part to communicate to the Complainant in writing. Hence, the Respondent is *prima-facie* 'Guilty' of Professional Misconduct for contravening clause (8) of Part I of the First Schedule of the Company Secretaries Act, 1980.
7. The *prima-facie* opinion dated 6<sup>th</sup> March, 2013 of the Director (Discipline) was placed before the Board at its meeting held on 18<sup>th</sup> March, 2013. The Board considered the *prima-facie* opinion of the Director (Discipline); the material on record and agreed with the *prima-facie* opinion of the Director (Discipline) that the Respondent is 'Guilty' of Professional Misconduct for contravening clause (8) of Part I of the First Schedule of the Company Secretaries Act, 1980 and decided to proceed further in the matter in accordance with Chapter IV of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007.
8. Accordingly, a copy of the *prima-facie* opinion of the Director (Discipline) was sent to the parties *vide* letters dated 21<sup>st</sup> March, 2013 asking them to submit the written statement and the rejoinder to the *prima-facie* opinion of the Director (Discipline), respectively.
9. The Respondent *vide* letter dated 4<sup>th</sup> April, 2013 forwarded a copy of the letter dated 2<sup>nd</sup> April, 2013 of the Complainant for withdrawal of the complaint. The Complainant *vide* e-mail dated 26<sup>th</sup> April, 2013 confirmed that he wants to withdraw the instant complaint.
10. 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 a 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."

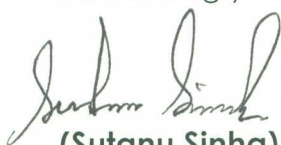
**Rule 6 of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007:**

"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".

11. The Board on 3<sup>rd</sup> May, 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 and permitted the withdrawal of the complaint and closed the matter.

Accordingly, the complaint stands disposed-off.

  
(Sutanu Sinha)  
Member

  
(Umesh H Ved)  
Member

  
(Sudhir Babu C)  
Presiding Officer

Date: 17<sup>th</sup> June, 2013  
New Delhi

