

BEFORE THE BOARD OF DISCIPLINE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

ICSI/DC:111/2012

In the matter of complaint of professional or other misconduct filed by Shri M N Bhalekar (FCS-2334) against Shri Devendra S Ringangaonkar, FCS - 6223 (CP No. 6221).

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

ORDER

1. A complaint in Form 'I' dated 21st February, 2011 was filed on 19th December, 2011 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 M N Bhalekar (hereinafter referred to as 'the Complainant') against Shri Devendra S Ringangaonkar, FCS - 6223, (CP No. 6221) (hereinafter referred to as 'Respondent').
2. The Complainant in his complaint had *inter-alia* alleged that the Respondent had issued compliance certificate to M/s. Senate Technologies (India) Pvt. Ltd. for the year ended 31st March, 2010 without communicating with him as he was carrying out the assignment of the company since its incorporation.
3. Pursuant to sub-rule (3) of Rule 8 of the Rules, a copy of the complaint was forwarded to the Respondent *vide* letter dated 26th December, 2011 calling upon him to submit the written statement. The Respondent submitted the written statement dated 12th January, 2012 wherein he, *inter-alia* had submitted that he had sent a communication to the Complainant at his address *vide* dated 15th May, 2010 through courier seeking no objection certificate from him.
4. Pursuant to sub-rule (4) of Rule 8 of the Rules, a copy of written statement was forwarded to the Complainant *vide*



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letter dated 25th January, 2012 asking him to submit his Rejoinder. The Complainant submitted his Rejoinder dated 13th February, 2012. The Complainant in his rejoinder while denying the submissions of the Respondent has *inter-alia* stated that the communication / intimation reported to have been sent by the Respondent has not been received / acknowledged by him.

5. 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 is *prima-facie* 'Guilty' of professional misconduct under clause (8) of Part I of the First Schedule of the Company Secretaries Act, 1980, as mere posting of the letter was not sufficient to comply with the requirements of clause (8) of part I of First Schedule to the Act, but acknowledgement by the addresses of same was essential.
6. The Board of Discipline at its meeting held on 25th August, 2012 considered the *prima-facie* opinion dated 18th June, 2012 of the Director (Discipline) and material on record and agreed with the *prima-facie* opinion that the Respondent is 'Guilty' of professional misconduct under clause (8) of Part I of the First Schedule of the Company Secretaries Act, 1980. The Board 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 the Cases) Rules, 2007.
7. Accordingly, a copy of the *prima-facie* opinion of the Director (Discipline) was sent to the Respondent *vide* letter dated 27th August, 2012 asking him to submit the written statement to the *prima-facie* opinion with a copy to the Complainant along with all the supporting documents and list of witnesses, if any, by 10th September, 2012. A copy of the *prima-facie* opinion of the Director (Discipline) was also sent to the Complainant *vide* letter dated 27th August, 2012 asking him to submit his rejoinder to the written statement of the Respondent along with all the supporting documents and list of witnesses, if any, by 24th September, 2012.
8. The Respondent *vide* his letter dated 4th September, 2012 submitted the written statement to the *prima-facie* opinion



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of the Director (Discipline). The copy of the written statement submitted by the Respondent was sent to the Complainant vide letter dated 17th September, 2012 asking him to submit the rejoinder. The Complainant submitted the rejoinder vide letter dated 24th September, 2012.

9. The Board of Discipline at its meeting held on 18th December, 2012 noted the written statement submitted by the Respondent and the rejoinder of the Complainant. The Board after considering the material on record decided to call the parties to appear before the Board at its next meeting. Accordingly, vide letters dated 16th February, 2013 parties were called to appear before the Board at its meeting on 26th February, 2013.
10. The Respondent vide letter dated 18th February, 2013 had sought extension of time for personal appearance. The Complainant vide letter dated 21st February, 2013 requested to exempt him from personal appearance and to decide the matter on merit.
11. The Board of Discipline considered the letters dated 18th February, 2013 and 21st February, 2013 received from the Respondent and the Complainant respectively and decided to provide last and final opportunity to the parties to appear before the Board on Monday, the 18th March, 2013, at Mumbai. Accordingly, vide letters dated 5th March, 2013 parties were called to appear before the Board at its meeting on 18th March, 2013 at ICSI-CCGRT, Navi Mumbai.
12. The Board of Discipline noted that the Complainant vide letter dated 12th March, 2013 has informed that he may not be able to appear in person before the Board on 18th March, 2013 and requested the Board to decide the matter on merit.
13. Shri Devendra S Ringangaonkar, the Respondent appeared before the Board wherein he was informed that he has been called before the Board for the disciplinary proceedings initiated against him in connection with professional misconduct under clause (8) of Part I of the First Schedule of the Company Secretaries Act, 1980, as mere posting of the letter to the Complainant was not sufficient to comply with the requirements of clause (8) of



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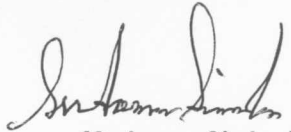
Part I of the First Schedule to the Company Secretaries Act, 1980. The Board asked him to submit the proof of delivery of the letter posted to the Complainant. The Respondent submitted an affidavit of one Mr. Aziz Ali Khan, employee of M/s. Madhur Courier Services, Aurangabad. The Board asked the Respondent to clarify about the courier receipt which shows the address of the Respondent as Shreya Nagar whereas his office was located at Jalna Road. Also, the Board sought clarification as to why there is a correction in the date in the courier receipt No.A372. The Board also asked the Respondent as to whether his communication to the Complainant was complete or incomplete.

14. After hearing the Respondent, the Board considered the matter and conveyed to him that in the opinion of the Board, he was 'Guilty' of professional misconduct under clause (8) of Part I of the First Schedule of the Company Secretaries Act, 1980.
15. Then the Board gave him an opportunity of hearing in terms of Section 21A (3) of the Company Secretaries Act, 1980. The Respondent admitted his guilt committed by him and requested the Board for a lenient view.

The Board of Discipline considered the submissions made by the Respondent and the material on record; held him 'Guilty' of professional misconduct for violating clause (8) of Part I of the First Schedule of the Company Secretaries Act, 1980 and passes the following order against the Respondent:

'Reprimand' and a fine of Rs.1000/-

The order shall be effective after the expiry of 30 days of issue of this order.


(Sutanu Sinha)
Member


(Umesh H Ved)
Member


(Sudhir Babu C)
Presiding Officer

Date: 4th April, 2013

