

THE DISCIPLINARY COMMITTEE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT

ICSI/DC: 108/2011

Date of Decision: 28th August, 2014

Shri Rampal Omprakash Kalya

....COMPLAINANT

Vs.

Shri Ashok Surana, FCS-3559

....RESPONDENT

ORDER

1. On 31st May, 2014, the Disciplinary Committee after considering the complaint, written statement, rejoinder and other material on record had held the Respondent 'Guilty' of professional misconduct under clause (7) of Part-I of the Second Schedule of the Company Secretaries Act, 1980 as he did not exercise due diligence in the conduct of his professional duties since he merely checked the minutes which was not sufficient for certification of the Forms. The Committee also observed that the Complainant has questioned the validity of the aforesaid meetings as on the date of the appointment of Shri Surya Prakash Kalya as director and increasing the authorized share capital of the company, there were only two Directors and shareholders i.e. the Complainant himself and Shri Tribhuvanlal Kanhaiyalal Kalya. The Complainant has denied to have attended the said meetings. Further, as per the compliance certificate issued by Shri Shailesh Karande, Practicing Company Secretary for the FY ended 31st March, 2010, only five Board meetings (i.e. on 6.6.2009, 30.8.2009, 30.9.2009, 28.12.2009 & 27.03.2010) and one General Meeting (on 30.9.2009) were held during the FY 2009-2010. Further, as per the compliance certificate, there was no appointment of director, additional director or alternate directors to fill the vacancy was done during the financial year as found mentioned in Form 32 certified and filed by the Respondent.



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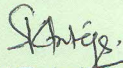
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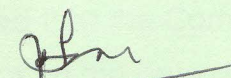
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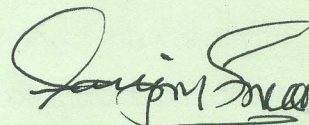
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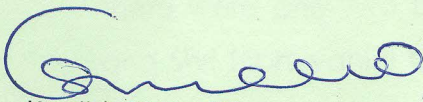
2. The Committee, in terms of Section 21B (3) of the Company Secretaries Act, 1980 read with Rule 19(1) of the Company Secretaries (Procedure of Investigations of Professional and other misconduct and conduct of cases) Rules, 2007, had decided to afford an opportunity of being heard to the Respondent. . Accordingly, vide letter dated 8th August, 2104, a copy of the order dated 8th August, 2014 was sent to the Respondent and he was called upon to appear before the Disciplinary Committee on 28th August, 2014 vide letter dated 11th August,2014.
3. On 28th August, 2014, the Respondent did not appear before the Disciplinary Committee. The Disciplinary Committee considered the material on record; the nature of issues involved and in the totality of the circumstances of this case, passes the following order under Section 21B (3) of the Company Secretaries Act, 1980 read with proviso to Rule 19(1) of the Company Secretaries (Procedure of Investigations of Professional and other misconduct and conduct of cases) Rules, 2007:
- (i) Removal of name of the Respondent from the Register of Members of the ICSI for a period of 120 days; and
 - (ii) Fine Rs.25,000/-.


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


(S K Tuteja)
Member


(S Balasubramanian)
Member


(Sanjay Grover)
Member


(Sudhir Babu C)
Member


(R Sridharan)
Presiding officer

Date: 07th Oct, 2014

