THE DISCIPLINARY COMMITTEE

THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT

ICSI/DC: 195/2013

Date of decision: 9th June, 2015

M/s. Kerala Tourism Development Corporation Ltd. (KTDC)

....Complainant

Vs.

Mr. Benny Mathew, ACS - 21459

.... Respondent

ORDER

- 1. The Disciplinary Committee on 21st November, 2014 had noted the letter dated 22nd September, 2014 of the Respondent under which he had submitted attested copies of the letters obtained from (i) M/s. Emerizz Solutions Pvt. Ltd. (ii) M/s. Dolphin Wires Pvt. Ltd., (iii) M/s. Choice Trading Corporation (P) Ltd., (iv) M/s. Benny & Co. (v) M/s. Kocheries Legal Consultants LLP, (vi) M/s. LSG (India) Pvt. Ltd., (Emeritus Legal Technology Pvt. Ltd.) and (vii) M/s. Maria Group International (P) Ltd.
- 2. The Committee after considering the complaint, written statement, and rejoinder, other material on record and upon hearing both the parties found that the Respondent has affixed the signature of Managing Director in a communication sent to the Government. It was also observed that the Respondent had misused official computer for his private work while he was officiating in the capacity of Secretary & Finance Controller of M/s. KTDC Limited. The Disciplinary Committee concluded that it is abundantly clear that the Respondent has been dealing with the said companies while he was in whole time employment with M/s. KTDC Limited. This act of the Respondent is unbecoming of a professional and therefore, the Committeeconcluded that the Respondent is 'Guilty' of professional misconduct under Clause (1) of Part-II of the Second Schedule of the Company Secretaries Act. 1980. The Committee in terms of sub-rule (1) of Rule 19 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 before passing any order under Section 21B(3) of the Company Secretaries Act, 1980. A copy of the order dated 12th January, 2015 passed by the Disciplinary Committee was sent to the parties vide letter dated 13th January, 2015.
- 3. The Disciplinary Committee on 14th May, 2015 took note of the Order dated 12th January, 2015 and decided to call the Respondent to appear before it on 9th June, 2015 in terms of sub-rule (1) of Rule 19 of the Company Secretaries (Procedure of Investigations of Professional and other misconduct and conduct of cases) Rules, 2007 before passing any order under Section 21B (3) of the Company Secretaries Act, 1980. Accordingly, vide letter dated 15th May, 2015 the Respondent was called upon to appear before the Disciplinary Committee on 9th June, 2015.
- 4. On 9th June, 2015, the Respondent along with Dr. K B S Rajan, Advocate appeared before the Disciplinary Committee. Dr. K B S Rajan, Advocate made oral and written submissions before the Committee. The Committee considered the submissions made







by Dr. K B S Rajan, Advocate. The Disciplinary Committee was of the considered view that the Respondent has misused his office by doing the work related to the other entities while being in employment of M/s. KTDC. This fact was never denied by the Respondent. This is clear that the Respondent rendered the professional services and assistance with respect to the matters of principle or detail relating to practice of the profession of the Company Secretaries and therefore, the Respondent can't deny that he was not in deemed to be in practice of Company Secretary.

We, after considering the material on record; nature of issues involved, and in the totality of the circumstances of this case, pass 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 Mr. Benny Mathew, ACS-21459, the Respondent from the Register of Members for a period of 30 days; and
- (ii) Fine Rs. 20,000/-.

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

(S K Tutefa) Member

(Ashish C Doshi) Member

Date: 30/07/2015

(S K Agrawala) Member

(Atul H Mehta)
Presiding Officer