

**THE DISCIPLINARY COMMITTEE
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA**

ICSI/DC: 155/2013

**IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER
MISCONDUCT**

Date of Decision: 13th January, 2014

Shri Jasraj Bhagwandas Goyal

....Complainant

Vs

Shri Ajai Kumar, ACS – 21637

....Respondent

ORDER

1. A complaint dated 7th September, 2012 in Form-I 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 Jasraj Bhagwandas Goyal (hereinafter referred to as the 'Complainant') against Shri Ajai Kumar, ACS-21637 (CP No. 8140) (hereinafter referred to as the 'Respondent').
2. The Complainant *inter-alia* alleged that the Respondent had used his digital signature without his knowledge on Form 32 pertaining to the appointment of Shri SCRKD Chaudhari as an additional director of M/s. Tigaksha Safety Razor Blade Pvt. Ltd., and had uploaded the same on the website of the MCA. The Complainant further alleged that the Respondent has uploaded the said Form 32 without attaching the minutes of the purported Board meeting for the appointment of Shri SCRKD Chaudhari as an additional director of M/s. Tigaksha Safety Razor Blade Pvt. Ltd., which he noticed on 16th August, 2012.

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Shri Jasraj Bhagwandas Goyal



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 14th September, 2012 calling upon him to submit the written statement. The Respondent submitted the written statement dated 1st October, 2012 wherein he denied the allegations levied against him and *inter-alia* stated that he was not involved in preparation of the alleged Form 32 and has not affixed the DSC of the Complainant on it. He further stated that the alleged Form 32 was indeed prepared at the behest of the board of directors of M/s. Tigaksha Safety Razors Pvt. Ltd., with the help of Shri Ashwini Kamble, a trainee and Shri Suryakant Laxman Khare (Company Secretary of M/s. Super Max Personal Care Private Limited, the flagship group company) and the DSC was affixed by none other than the Complainant himself and was then forwarded to Shri Ranveer Chandel (Company Secretary of M/s. Tigaksha Safety Razor Blade Pvt. Ltd) who in turn forwarded the same to the Respondent for attestation; so there is no question as to the forgery of DSC by him.
4. 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 5th October, 2012 asking him to submit the rejoinder. An email dated 23rd October, 2012 was received from the Complainant seeking additional time to file the rejoinder which was granted *vide* email dated 25th October, 2012. The Complainant submitted the rejoinder dated 3rd November, 2012, wherein he reiterated the contents of the complaint and made few additional submissions.
5. A letter dated 6th February, 2013 was sent to the Respondent asking him to submit the copies of all the documents he had relied upon while certifying the alleged Form 32 pertaining to the appointment of Shri Subhash Chandra Rohini Kumar Dutta Chaudhuri as additional director of M/s.



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Tigaksha Safety Razor Blade Private Limited. The Respondent submitted his reply dated 20th February, 2013.

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 had received an email from Shri Ranveer Chandel for attesting and filing of the alleged Form 32. Shri Ranveer Chandel (Company Secretary of M/s. Tigaksha Safety Razor Blade Pvt. Ltd.) had received the same from Shri Ashwini Kamble, the trainee - CS, Suryakant Laxman Khare (Company Secretary of M/s. Super Max Personal Care Private Limited, the Flagship Group Company). It is also observed that the attached form 32 was digitally signed by the Complainant before it was received by the Respondent. It is also observed that the Complainant has denied knowing Shri Ranveer Chandel. It appears that the Respondent has merely relied on the email of one Shri Ranveer Chandel and the attachments with the email for certification of the alleged Form 32 rather than actually verifying the relevant documents from the company. There has been laxity on the part of the Respondent in the conduct of the professional duties while certifying and filing Form 32 in respect of appointment of Shri SCRKD Chaudhari as an additional director of M/s. Tigaksha Safety Razor Blade Pvt. Ltd. Hence, the Respondent is *prima-facie* 'Guilty' of professional misconduct under clause (7) of Part I of the Second Schedule of the Company Secretaries Act, 1980.
7. The Disciplinary Committee considered the *prima-facie* opinion of the Director (Discipline) dated 29th May, 2013; the material on record; and agreed with the *prima-facie* opinion and decided to proceed further in the matter in accordance with Chapter V of the Company Secretaries (Procedure of Investigations of Professional and other Misconduct and Conduct of Cases) Rules, 2007.



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8. Accordingly, copy of the *prima-facie* opinion of the Director (Discipline) dated 29th May, 2013 was forwarded to the Respondent *vide* letter dated 31st July, 2013 asking him to file the written statement along with the supporting documents and list of witnesses, if any, to the Disciplinary Directorate with a copy to the Complainant by 14th August, 2013. A copy of the *prima-facie* opinion of the Director (Discipline) dated 29th May, 2013 was also forwarded to the Complainant *vide* letter dated 31st July, 2013 asking him to file the rejoinder to the written statement along with supporting documents and list of witnesses, if any, to the Disciplinary Directorate by 29th August, 2013.
9. The written statement dated 14th August, 2013 to the *prima-facie* opinion of the Director (Discipline) was received from the Respondent. The Complainant *vide* letter dated 26th August, 2013 requested for granting four weeks time to submit the rejoinder. The Complainant was granted additional time *vide* letter dated 9th September, 2013. The Complainant *vide* letter dated 14th September, 2013 submitted the rejoinder.
10. The parties were called upon to appear before the Disciplinary Committee on 1st November, 2013 *vide* letter dated 9th October, 2013. The parties were informed *vide* letter dated 14th October, 2013 that the hearing of the Disciplinary Committee scheduled to be held on 1st November, 2013 has been postponed.
11. The Complainant *vide* letter dated 15th October, 2013 acknowledged the receipt of the letters dated 9th October, 2013 & 14th October, 2013 and requested to inform him the next date of hearing.
12. The parties *vide* letters dated 30th October, 2013 were called upon to appear before the Disciplinary Committee on 25th November, 2013.



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13. On 25th November, 2013, the Complainant along with one Mr. Anshul appeared before the Committee and made oral submissions. He also submitted a notarized copy of the pages drawn from the passport of Mr. R K Malhotra. The Respondent along with Dr. S Kumar, Advocate appeared before the Committee and made oral submissions.

14. The Disciplinary Committee heard the parties and decided to give last and final opportunity to the parties to submit further documents, if any, within 12 days.

15. The Respondent *vide* his letter dated 29th November, 2013 *inter-alia* stated that he has certified the alleged forms in good faith without any *mala-fide* intention. He further requested the Disciplinary Committee to take a lenient view in the matter. The Complainant *vide* his letter dated 29th November, 2013 submitted his submissions in an affidavit duly notarized.

16. The parties were called upon to appear before the Disciplinary Committee on 13th January, 2014 *vide* letter dated 1st January, 2014.

17. On 13th January, 2014, one Shri Sahil Sharma appeared before the Committee on behalf of the Complainant and submitted a Power of Attorney of the Complainant authorising him to appear before the Committee. He was allowed by the Disciplinary Committee. He then made oral submissions. The Respondent also appeared before the Committee and accepted that he did not exercise due diligence while performing his professional duties.

18. The Committee considered the (i) oral/written submissions made by the parties (ii) letter dated 29th November, 2013 of the Respondent wherein he had admitted his lapses and requested the Committee to take a lenient view and (iii) material on record and concluded that the Respondent is

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Anshul Kumar
S. Kumar

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Dr. S. Kumar

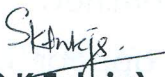
'Guilty' of professional misconduct under clause (7) of Part-I of the Second Schedule of the Company Secretaries Act, 1980 as he did not exercise due diligence in the conduct of his professional duties. The Committee communicated the same to the Respondent. Thereafter, the Disciplinary Committee gave an opportunity of being heard to the Respondent before passing any order under Section 21B (3) of the Company Secretaries Act, 1980.


19. The Respondent accepted the decision of the Committee and reiterated his request for a lenient view.

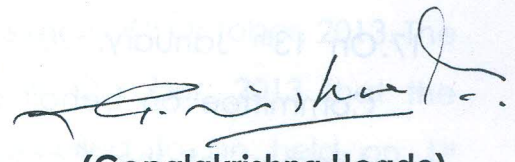
20. The Disciplinary Committee after considering the material on record and in the totality of the issues involved in the matter, passed the following order:

- (i) Removal of name of the Respondent from the Register of Members of the ICSI for a period of 30 days; and (ii) fine of Rs.5,000/.

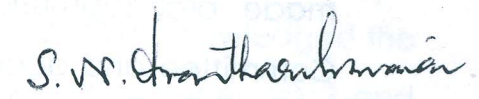
The order shall be effective after the expiry of 30 days of issue of this order.


(S K Tuteja)
Member


(B Narasimhan)
Member


(Gopalakrishna Hegde)
Member




(S N Ananthasubramanian)
Presiding Officer

Date: 07/02/2014