

**THE DISCIPLINARY COMMITTEE
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA
IN THE MATTER OF COMPLAINT OF PROFESSIONAL OR OTHER MISCONDUCT**

(DC/363/2016)

Order Reserved on: 3rd June, 2019

Order issued on: 12 7 JUN 2019

**M/s. Karkhana Zinda Tilismath
(through Shri Masihuddin Farooqui & Others)**

.....Complainant

Vs.

**Shri Venkata Madana Gopal Divvela,
FCS-6280, CP No. 6798
(M/s. DVM Gopal & Associates)**

.....Respondent

Present:

Mrs. Meenakshi Gupta, Director (Discipline)
Shri Vikash Kumar Srivastava, Deputy Director

FINAL ORDER

1. A complaint dated 12th August, 2016 in Form-'I' filed under Section 21 of the Company Secretaries Act, 1980, ("the Act") 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 Masihuddin Farooqui of M/s Karkhana Zinda Tilismath, ('the Complainant'), against M/s DVM Gopal & Associates, Company Secretaries, represented by Shri Venkata Madana Gopal Divvela, FCS-6280, CP No.-6798, ('the Respondent').
2. The Complainant in his Complaint has stated that the Respondent was assigned the task of conversion of partnership firm M/s Karkhana Zinda Tilismath, into LLP. Some of the Partners of M/s Karkhana Zinda Tilismath, were not comfortable with clauses to be incorporated in the document, it was decided to obtain name availability only. Subsequent to the approval of Registrar of Companies, Hyderabad, of the name availability, there was no consensus on clauses of the agreement among the Partners. An effort was being made to resolve the issues by reference to Arbitration which did not fructify and the matter remained stalled. It is alleged that some of the Partners in connivance with the Respondent, filed the documents for conversion before the Registrar of Companies, Hyderabad, and got the same approved.
3. The Respondent in his Written Statement to the company has inter-alia stated that he has acted within the authority given to him in the Partnership Resolution dated 16th January, 2015, which was also signed by the Complainant. The Respondent has further stated that he has accepted whatever documents were provided by the Firm in good faith and the LLP Agreement was strictly in accordance with the terms of original Partnership Agreement and there is no change except the change required to be carried out as per the LLP Act, 2008. The LLP Agreement filed with the ROC was verbatim of the original partnership deed. The Original Partnership Deed was agreed and signed by the Complainant. Therefore, the terms of Original Partnership Deed and LLP Agreement terms are one and the same and there




was no change, except the required changes to be carried as per the LLP Act, 2008 and at the time of filing of Form 3, the Original Partnership Deed entered on 30th March, 2013 have also attached to substantiate the same, even though there was no mandatory requirement.


4. In pursuance of Section 21 read with the Rules, the Director (Discipline) has formed prima-facie-opinion dated 6th December, 2017, wherein the Director (Discipline) is *prima-facie* of the opinion that the Respondent is guilty of professional or other misconduct under Item(s) (5) & (7) of Part I of the Second Schedule to the Act as the Respondent has not exercised due diligence in filling LLP Form 2 & 3 regarding conversion of partnership Firm M/s Karkhana Zinda Tilismath into an LLP and made changes in the details of the partners without proper Resolution .
5. Disciplinary Committee in its meeting held on 14th December, 2017 decided to adjudicate the matter in accordance with Rule 18 of the Rules read with the Act to finally conclude as to whether the Respondent is guilty or not in the matter.
6. Written statement to *prima-facie opinion* and rejoinder thereof has been received from the Respondent and the Complainant respectively.
7. Complainant vide letter dated 19th April, 2019 has informed that the matter has been resolved amicably and the Complainant doesn't intend to proceed with the Complaint. Parties have been called to appear before the Disciplinary Committee on 23rd April, 2019. The Respondent appeared in person. None appeared for the Complainant.
8. The Disciplinary committee after hearing the submissions of the Respondent , all the material on Record , the nature of issued involved and in the totality of the circumstances of the case , considered the request for withdrawal of the Complaint under Section 21(5) of the Act and directed the Complainant to submit certified copy of the resolution passed by the partners of the M/s Karkhana Zinda Tilismath for withdrawal of the Complaint or submit a letter of withdrawal signed by all the persons who were signatories to the Complaint.
9. Copy of the resolution received from the Complainant has been placed before the Disciplinary Committee on 3rd June, 2019.
10. The Disciplinary Committee after considering the request for withdrawal of the Complaint under section 21(5) of the Act read with Rule 6 of the Rules, the material on record, the nature of issued involved and in the totality of the circumstances of the case, the provisions of the Act, the Rules supra governing withdrawal of the Complaint; permitted the withdrawal and decided to close the Compliant.

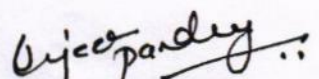
Accordingly, the matter stands disposed off.


Member


Member




Member


Presiding Officer