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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 26.07.2016

\+ **CONT. CAS(C) 657/2016. C M. No. 19762/2016. (Exemption)**

HARPAL SINGH DHINGRA ..... Petitioner

versus

VINOD GUPTA ..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Vishwas Ahuja

For the Respondent : Mr. Ashish Makhija

CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. On 23.05.2016, this petition as directed to be listed on 01.12.2016 alongwith the connected Writ Petition. In the Writ Petition, on 15.07.2016, an application was filed by the respondent which was directed to be listed today and accordingly this contempt petition was also directed to be listed today.

2. The petitioner has filed the present contempt petition contending that the respondent has wilfully violated the statement given to this Court on 14.03.2016 in W.P.(C) No.2130/2016.

3. In W.P.(C) No.2130/2016, the respondent impugned the report dated 06.11.2015 issued by the Board of Discipline of the Institute of

Chartered Accountants of India whereby the petitioner had been held guilty of "other misconduct" falling within the meaning of clause (2) Part-IV of the First Schedule to the Chartered Accountants Act, 1949 (hereinafter referred to as "the Act").

4. During the hearing of the said petition on 14.03.2016, the respondent herein (petitioner in the said petition) gave the following statement:-

> "At this stage, Mr. Amit Sibal, learned senior counsel for petitioners on instructions, without prejudice to his client's rights and contentions, states that petitioners shall voluntarily not practice the profession of Chartered Accountant till the next date of hearing."

5. The statement made by the counsel for the petitioner was accepted by the Court and the petitioner was held bound by the same.

6. Learned counsel for the petitioner contends that the respondent, despite giving the undertaking as noted above, that he shall not practice the profession of chartered accountancy till the next date of hearing, has issued advertisements in the month of April and May, 2016 representing himself as a Chartered Accountant. It is contended that the respondent has wilfully violated the statement given to this Court and is thus liable for being proceeded with under the Contempt of Courts Act, 1971.

7. I am unable to accept the contention of the counsel for the petitioner. The respondent had given a statement that he shall not practice the profession of chartered accountancy. Section 2 of Sub-Section(2) of the Act reads as under:-

"(2) A member of the Institute shall be deemed, "to be in practice", when individually or in partnership with chartered accountants in practice, he, in consideration of remuneration received or to be received –

(i) engages himself in the practice of accountancy; or

(ii) offers to perform or performs services involving the auditing or verification of financial transactions, books, accounts, or records or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant;

(iii) renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the recording, presentation or certification of financial facts or data; or

(iv) renders such other services as, in the opinion of the Council, are or may be rendered by a chartered accountant in practice; and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly."

8. In terms of Section 2 (2) of the act, when a person engages himself in the practice of accountancy, offers to perform or performs services involving the auditing or verification of financial transactions, books, accounts, or records or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant, renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the

recording, presentation or certification of financial facts or data, he is deemed to be in the practice.

9. The allegation against the respondent is that the respondent is running teaching classes for teaching aspirants, who seek to become Chartered Accountants. The advertisements annexed as Annexure P-2 to the petition show that the respondent is running coaching classes. Nowhere in the said advertisements, it could be pointed out, that the respondent was offering to render services of auditing or verification of financial transactions, books, accounts, or records or any services related to accounting procedure or recording presentation or certification of financial facts or data etc. The respondent, by the said advertisements, is merely offering coaching to aspirants of the profession of chartered accountancy.

10. Learned counsel for the petitioner further contends that the respondent along with his name is mentioning "CA", which implies that he is offering the services of the accountancy and representing himself as Chartered Accountant.

11. This contention is also not acceptable as the respondent is registered as a Chartered Accountant and till he is removed from the rolls, he is entitled to use the prefix and suffix "CA".

12. It is apparent that the respondent had given the said statement on 14.03.2016, because the Board of Discipline of Institute of Chartered Accountants of India had held the respondent guilty of "other misconduct". The punishment was still to be awarded. The punishments

that could be awarded were removal, suspension or reprimand.

13. As noticed in the writ petition No.2130/2016, which is also listed today, the respondent has been awarded the punishment of reprimand and has neither been suspended nor removed from the rolls of the Institute of Chartered Accountants of India.

14. The issuance of advertisements offering to take coaching classes and to impart of training to aspirants of the profession of chartered accountancy, in the above circumstances, cannot be said to be carrying on the profession of chartered accountancy so as to constitute wilful violation of the undertaking given to this court on 14.03.2016.

15. I find no merit in this petition. The same is dismissed. The next date 01.12.2016, originally fixed is cancelled.

SANJEEV SACHDEVA, J

JULY 26, 2016
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