

## **Apex Court quashes HC's Order on CA's misconduct for his Acts not related to Professional Work**

**Summary – The Supreme Court of INDIA in a recent case of Gurvinder Singh, (the Assessee) held that Chartered Accountants Act : Where respondent-CA dishonestly received dividend on shares sold by him to complainant and Disciplinary Committee recommend for removal of his name from the Rolls but High Court held that action of respondent was individual and was not professional misconduct as he was not acting as a chartered accountant, matter was to be reconsidered afresh in light of section 21(3)**

### **Facts**

- Respondent-Chartered Accountant sold his shares to complainant but continued to receive dividend on those shares by cheating complainant.
- The matter had ultimately been settled between complainant and the Chartered Accountant.
- But Disciplinary Committee took up case and ultimately found that conduct of respondent chartered accountant was derogatory in nature and highly unbecoming and held him guilty of 'other Misconduct'. Committee made its recommendation to the High Court to remove the respondent's name for a period of six months from the Rolls.
- The High Court after setting out sections 21 and 22, arrived at the conclusion that respondent was acting as an individual in his dealings with the complainant which were purely commercial and while selling the shares held by him, the respondent was not acting as a Chartered Accountant and rejected Committee's recommendation.
- On appeal to Supreme Court:

### **Held**

- High Court had not correctly appreciated Section 21(3). The Disciplinary Committee has, on facts, found the respondent guilty of a practice which was not in the Chartered Accountant's professional capacity. This, it was entitled to do under Schedule I Part-IV sub-clause (2) if, in the opinion of the Council, such act brings disrepute to the profession whether or not related to his professional work.
- This being the case, it is clear that the impugned judgment is incorrect and must, therefore, be set aside. Thus, the matter is remanded to the High Court to be decided afresh.