



26th July, 2020

Public Announcement

Sub: Illegal and Unauthorised use of the acronym “ICAI” by the Institute of Cost Accountants of India

The Institute has come across a News Item published in Times of India (Chennai Edition) dated 26th July, 2020 with the tag line “**Court refuses to stop cost accountants from using ICAI acronym**” which gives a **blatantly** wrong impression to the general public as if the Hon’ble Madras High Court has allowed the use of acronym ‘ICAI’ by the Institute of Cost Accountants of India which is totally erroneous and misplaced and does not flow from the judgment as has been wrongly reported in the national daily.

The facts pertaining to the aforesaid news item are that being felt aggrieved by the unwarranted use of the acronym ‘ICAI’ by the Institute of Cost Accountants of India; one of the members of this Institute filed a Writ Petition before the Madras High Court (W.P.No.30203 of 2016) against (1) the Institute of Cost Accountants of India with (2) Union of India, Ministry of Corporate Affairs, (3) the Institute of Chartered Accountants of India as respondents which was dismissed by the Hon’ble High Court on the **ground of want of locus-standi of the Petitioner and availability of alternative remedy in the Trade Marks Act, 1999**. The Court, in this regard, observed that-

“19. Needless to state that the Trademark right is a proprietary right and therefore only such owner of the Trademark, if aggrieved against any infringement of such trademark, has locus standi and consequently a cause of action to initiate appropriate proceedings before the appropriate forum against such infringement and to seek the appropriate relief thereunder. Such proprietary right of trademark is a right in personam and not a right in rem. Therefore, the petitioner, though a member of the third respondent, cannot be called as an aggrieved person, even to initiate the proceedings before such appropriate forum against the alleged infringement.

20. It is vehemently contended by the petitioner and the third respondent that availability of alternative remedy is not a bar for entertaining this writ petition and exercising the jurisdiction of this Court under Article 226 of the Constitution of India. True, it is not that this Court is powerless or that availability of an alternative remedy will always be a bar for exercising the jurisdiction

under Article 226 of the Constitution of India. At the same time, it is to be noted that the jurisdiction under Article 226 of the Constitution of India is a discretionary jurisdiction and hence it is not necessary for this Court to exercise such discretionary jurisdiction in all cases, notwithstanding the factum of availability of alternative remedy, even though a case is made out by the petitioner. In this case, the alternative remedy is a statutory remedy available under the separate enactment and when such remedy is not only efficacious and also the just and proper course of action, considering the dispute between the parties in this case, this Court is of the firm view that the parties have to agitate the matter by availing the other alternative remedy and certainly not by pursuing this writ petition”.

Being not satisfied with the above order dated 20.02.2018 of learned single judge, the petitioner member filed a Writ Appeal before the division bench of Madras High Court and the Hon'ble Madras High Court vide its order dated 22.07.2020 has dismissed the Writ Appeal also on the following grounds:-

- That the Appellant has no *locus standi* to maintain the Writ Petition. The ICAI is a body corporate established by statute with right to sue or be sued in its name and the Petitioner (Appellant) cannot maintain the Petition.
- As regards the alleged violation of Section 24A of the CA Act, 1949, prosecution can be done under Section 28 of the CA Act only by the Council or the Central Government.
- For the alleged violation of the Trade Marks Act, only ICAI as the Registered Proprietor of Trade Mark can sue for infringement and Appellant has no *locus standi* for such infringement.

From perusal of the above judgment, it is apparent that the Hon'ble High Court has nowhere allowed the Institute of Cost Accountants to use the acronym 'ICAI' as reported in the Newspaper but rather has dismissed the petition on the ground of lack of locus-standi of Petitioner and availability of alternative remedy to the owner of the Trade Mark under the respective laws.

In this connection, it is brought to the notice of the Members, Students & General Public that the acronym 'ICAI' is a registered Trade Mark of the Institute of Chartered Accountants of India (ICAI) [Trade Mark No. 2121118] with user date 01.07.1949. Therefore, the Institute of Chartered Accountants of India (ICAI), being its registered proprietor/owner and prior user, is exclusively entitled to use the acronym 'ICAI' to denote its identity. Any unauthorised/illegal use of the acronym 'ICAI' by any person/entity amounts to infringement of Trade Mark vested in the

Institute of Chartered Accountants of India (ICAI) as well as in contravention of other provisions of the Chartered Accountants Act, 1949.

The Institute has already taken up the matter with the Government for its redressal and would pursue the same subsequent to aforesaid judgment with appropriate authorities.

The Institute is also examining the legal remedies available to it for enforcement of its rights.

(Rakesh Sehgal)
Acting Secretary