HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF JULY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

MISCELLANEOUS FIRST APPEAL NO. 4113 OF 2026 (AA)

BETWEEN:

1. BONOMI PVT. LTD.
A COMPANY REGISTERED UNDER
THE COMPANIES ACT, 2013
BEARING CIN: U52100KA2020PTC136322
HAVING ITS REGISTERED OFFICE AT:
755/7, 4TH FLOOR, KRISHNA TEMPLE ROAD
INDIRANAGAR 1ST STAGE
BANGALORE - 560 038

NOW HAVING REGISTERED OFFICE AT:
SY NO. 8/2, GROUND FLOOR
CHEEMASANDRA, BANGALORE NORTH
BANGALORE - 560 049

2. MR. VARDHMAN JAIN
S/O MR. NIRMAL JAIN
AGED ABOUT 35 YEARS
HAVING OFFICE AT: NO. 114 KISAN
4TH CROSS, OMBR LAYOUT, BANASWADI
BENGALURU - 560 043

NOW RESIDING AT:
#201, GOLDEN GATE APARTMENT
COOKE TOWN, RICHARDS PARK
BANGALORE - 560 005

3. MR. RAHUL NIJHAWAN
S/O OF MR. SURINDER KUMAR
AGED ABOUT 33 YEARS
HAVING OFFICE AT
NO.114, KISAN, 4TH CROSS
OMBR LAYOUT, BANASWADI
BANGALORE - 560 049

NOW RESIDING AT:
GROUND FLOOR, 60, 1ST A CROSS ROAD
NEW FRIENDS COLONY, ST BED LAYOUT
KORAMANGALA, BANGALORE - 560 047

...APPELLANTS

(BY SRI DHYAN CHINNAPPA, SENIOR ADVOCATE A/W
SRI ROSHAN GEORGE JACOB, ADVOCATE)

AND:

1. ALAN ABRAHAM MATTHEW
S/O NOCHIPARAMBIL ABRAHAM MATHEW
AGED ABOUT 46 YEARS
RESIDING AT NOCHIPARAMBIL HOUSE
PUKALAKAT ROAD
BEHIND ST. MARTIN CHURCH
EDAPALLY SOUTH
PALARIVATTOM, KOCHI - 682 025

2. ARMAN REET BHASKAR
W/O. ARVIND KUMAR BHASKAR
AGED ABOUT 34 YEARS
RESIDING AT T017, PURVA PARK APARTMENTS
HARISHCHANDRA LAYOUT, JEEVANAHALLI
COX TOWN, BENGALURU - 560 005

...RESPONDENTS

(BY SRI P. CHINNAPPA, ADVOCATE)

THIS MFA IS FILED UNDER SECTION 37(1)(b) OF THE ARBITRATION AND CONCILIATION ACT, 1996 PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 02.05.2026 AT ANNEXURE - A, PASSED IN ARBITRATION APPLICATION NO.33/2025 ON THE FILE OF THE LEARNED XVI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE (CCH 12) BEFORE THE CITY CIVIL COURT, BANGALORE DIRECTING THE APPELLANT NO.2 TO DRAW A SALARY TO THE TUNE OF INR 1,00,000/- PER MONTH FOR THE MONTHS OF JULY, AUGUST AND SEPTEMBER 2025 AND THE APPELLANT NO.3 TO DRAW A SALARY OF INR 50,000/- PER MONTH FOR THE MONTHS OF JULY, AUGUST AND SEPTEMBER 2025 AND FURTHER DIRECTING THE APPELLANTS NOT TO BREAK ANY FIXED DEPOSITS IN THE APPELLANT NO.1 COMPANY UNTIL FURTHER ORDERS & ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The present appeal is filed under Section 37(1)(b) of the Arbitration and Conciliation Act, 1996 [hereafter, referred to as **'A&C Act'**] impugning an order dated 02.05.2026 [hereafter, referred to as **'impugned order'**] passed by the learned XVI Additional City Civil and Sessions Judge, Bengaluru [hereafter, referred to as **'District Court'**] in Arbitration Application No.33/2025.

2. Respondent No.1 [hereafter, referred to as '**the Investor**'] had filed Arbitration Application No.33/2025 [hereafter, referred to as **'the petition'**], under Section 9 of the A&C Act seeking certain interim measures of protection.

3. On, 22.04.2025, the learned District Court passed an order on I.A.No.1 in A.A.No.33/2025. The said order reads as under:

> "Petitioner shall comply the provisions under Order XXXIX Rule 3-A of CPC in respect of IA No.1 to 3.
>
> Issue an ad-interim order of temporary injunction restraining the defendants 1 to 4, their servants, agents, and all other persons claiming through or under one or more of the respondents from alienating/altering /transferring/pledging/creating third party rights/dealing with their respective shares in the respondent No.1 company, in any manner whatsoever, dealing with their bank accounts, assets, movable and immovable properties, investments, etc., that can be secured for enforcing any arbitral award, that may be passed by the duly constituted arbitral tribunal, from altering, tampering, destroying, concealing or placing out of reach all records, documents, information, financial statements etc., pertaining to respondent No.1 company in any manner whatsoever, as prayed in IA No.1 to 3, till next date of hearing.
>
> Issue notice of AA petition, I.A. Notice of IA No.1 to 3, Temporary Injunction order on IA No.1 to 3 and emergent Notice on IA No.4 to 6 to the respondents, only if PF is paid, along with sufficient copies of plaint, IA and documents, returnable by 03.06.2025."

4. Appellant Nos.1,2,3 and respondent No.2 are arrayed as defendants Nos.1 to 4 in AA 33/2025. The aforesaid order dated 22.04.2025 was subsequently modified by an order dated 03.05.2025. A plain reading of that order indicates that the said order was modified as per the undertaking furnished by appellant Nos.2 and 3 (arrayed as respondent Nos.3 and 4) to the effect that they would not draw their salary till the next date of hearing. The learned District Court found that the business would be adversely affected due to freezing of the bank accounts and modified the order dated 22.04.2025. The operative part of the said order dated reads as under:

> "The ex parte order of temporary injunction granted on 22-04-2025, in this case, is modified as hereunder:-
>
> Both the petitioner and Respondent Nos.1 to 4 are hereby restrained by way of an order of temporary injunction to maintain status quo, as on the date of filing of the suit, in respect of dealing with their bank accounts with condition to furnish the account statements till disposal of IA No.2 subject to the result of reasoned order on IA No 2.
>
> The order of ex parte injunction regarding alienating/altering/transferring/pledging/creating third party rights in respect of assets, movables and immovable properties, investments etc., shall be extended as it is till next date of hearing.
>
> For filing objection to IA No 8
>
> Call on 03-06-2025."

5. The aforesaid *ad interim* order was extended from time to time. Appellant Nos.2 and 3 filed a further application seeking modification of the *ad interim* order (I.A.No.XIII). They sought release from their undertaking not to withdraw any salary as they had not withdrawn their salary for the past eleven months while continuing to work for appellant No.1 [hereafter, referred to as '**the company'**]. According to them, they were entitled to salary from May, 2025 onwards, which had remained outstanding in view of their undertaking.

6. The said application was disposed of by the impugned order. The learned District Court partly allowed the said application to the extent that appellant No.2 was permitted to draw salary to the extent of ₹1,00,000/- per month for a period of three months, June, July and August, 2025 and appellant No.3 was permitted to draw salary of ₹50,000/- per month for the said three months. However, the learned District Court imposed another condition restraining appellant Nos.2 and 3 from breaking any fixed deposits in the Company's name till further orders.

7. The appellants' grievance in the present appeal is principally regarding the additional condition imposed by the learned District Court. It is contended that the Company is a start-up and currently consumes approximately ₹16 lacs per month to maintain its business operations. Thus, a net inflow of approximately ₹16 lacs is required to be infused in its operations, which the learned Senior Counsel appearing for the appellants described as the ‘burn rate’. The appellants state that if the Company is prevented from accessing its funds, the functioning of the Company would come to a standstill and would effectively lead to its liquidation.

PREFATORY FACTS

8. The Company is promoted by appellant No.2 and respondent No.2, and they were also the Company’s initial shareholders. The Investor is an individual who claims to be a distinguished entrepreneur and a seasoned investor with a well-established reputation in the retail and service sector. The Investor agreed to invest in the Company. He entered into a Compulsorily Convertible Debentures Subscription Agreement [hereafter, referred to as '**CCD agreement**'] with the Company and its promoters (appellant No.2

and respondent No.2) to subscribe to Non-Cumulative, Fully and Compulsorily Convertible Debentures [hereafter, referred to as **'CCDs'**]. In terms of the CCD agreement, the investor subscribed to 215 CCDs, at a consideration of ₹14,000/- each, aggregating to ₹30,10,000/-.

9. Subsequently, the Investor entered into two other similar agreements for subscription of CCDs – agreement dated 07.09.2023 [hereafter, referred to as **'CCD-2 agreement'**] for subscribing to 250 (two hundred and fifty) CCDs and an agreement dated 11.01.2024 [hereafter, referred to as **'CCD-3 agreement'**] for 250 CCDs. Under the said agreements, the investor subscribed to 250 (two hundred and fifty) CCDs. The Investor invested ₹35,00,000/- under each of the aforesaid agreements. Thus, in all, the Investor subscribed to 715 CCDs at the total consideration of ₹1,00,10,000/- (Rupees One Crore Ten Thousand only).

10. The Investor contends that it also agreed that existing promoters (appellant No.2 and respondent No.2) would transfer a 2.5% of their shareholding each in his favour. Concededly, in May

2024, appellant No.2 and respondent No.2 each transferred 250 equity shares of the Company in favour of the Investor.

11. Thereafter, there were further investments in the Company by other investors and a Security Holders' Agreement dated 04.09.2024 [hereafter, referred to as '**SHA**'] was entered into between the Company, its promoters (Appellant Nos.2 and 3 and respondent No.2), two investors (INFINYTE-FLV-BNMI and INFINYTE-FLV-BNMI II) BONOMI Investors Trust, and the existing shareholders, including the Investor. The said agreement indicates that, on the date of executing the SHA, the investor held 9.74% of the Company's shareholding.

THE PETITION FOR INTERIM MEASURES

12. Certain disputes arose between the parties, and the Investor filed the application under Section 9 of the A&C Act seeking interim measures of protection.

13. The Investor had made several allegations in his petition. First, he claims that he had made an investment on the representation that his investment would be used exclusively for growth and expansion of the Company's business. However, the

funds were used for operational purposes as well. Second, the Investor states that the information as agreed to be provided was not forthcoming. He relied on the correspondence to indicate that he had demanded certain financial and operational details, which were not provided. Third, he claimed that his suggestions regarding the Company's business were not accepted. He submitted that he had resisted the shift in the company's business to HORECA (Hotel, Restaurant and Catering) business model. The Investor claimed that his investment decision was influenced by the development and market potential of coffee products, particularly cold coffee products. However, these were discontinued, and the company shifted its focus from operating cafe chains. He submitted that respondent No.2 exited the Company and appellant No.3 was inducted. However, full disclosure of the said change was not shared with him at the material time.

14. The Investor asserted in the aforesaid backdrop that it was left with no option but to invoke the arbitration under the CCD agreements and the SHA, seeking redressal of his grievance *inter alia* by way of refund of his entire investment along with interest

and damages for the loss suffered on account of the acts of the appellants and respondent No.2.

SUBMISSIONS

15. One of the principal submissions advanced by the learned counsel for the appellants is that the District Court had no jurisdiction to entertain the application under Section 9 of the A&C Act, as the disputes involved between the parties are commercial disputes. This is stoutly disputed by the learned counsel for the respondent no.1 (Investor). He submits that the provisions of Section 2(1)(c) of the Commercial Courts Act, 2015 [hereafter, referred to as **'CC Act'**] must be construed narrowly and do not extend to the CCD Agreements. He submits that the CCD Agreements do not fall within the definition of sub-clause (i) of Section 2(1)(c) of the CC Act. It also does not qualify as a shareholders' agreement. The CCD agreement is an agreement for subscribing to CCD and not to equity. He also earnestly contended that sub-clause (xiii) of Section 2(1)(c) is also inapplicable as it covers subscription and investment agreements pertaining to the services industry, but does not include a manufacturing entity. He submits that the Company is engaged in a manufacturing industry

and not in a service industry. He contends that although the CCDs have been converted to shares, the same are the subject matter of dispute between the parties and that such conversion is not in accordance with the CCD agreements. He also contends that the Investor's investment in subscribing to the CCDs was made with the understanding that the Company would confine itself to manufacturing activities, and that the Company's venture into ready-to-drink beverages and establishing cafes was outside the scope of the CCD Agreements.

16. He also relied on the decisions of the Supreme Court in **Ambalal Sarabhai Enterprises Limited v. K.S. Infraspace, LLP and Another**[1] and, on the strength of the said decision, contended that the provisions of Section 2(1)(c) of the CC Act must be construed strictly and in a narrow sense. He also relied on the decision of the learned Single Judge of this Court in **Bhaskar Naidu v. Aravind Yadav**[2] and contended that the learned Single Judge held that a share purchase agreement could not be construed as a shareholders' agreement within the meaning of sub-clause (xii) of Section 2(1)(c) of the CC Act.

[1] (2020) 15 SCC 585
[2] NC : 2025:KHC:3634

17. The learned counsel appearing for the appellants countered the said submissions. He also pointed out that the petition was not premised solely on the CCD Agreement and the Investor had expressly stated that it was constrained to invoke the arbitration clause under the CCD Agreements and the SHA. He pointed out that the SHA was entered into between the Company, its promoters, the three other entities, including the Bonomi Investors Trust and the existing shareholders of the Company. He also submitted that even if it is accepted that the petition was confined to the CCD Agreements, the dispute relating to the same would fall within the purview of a commercial dispute as the Company was operating five cafes and thus its activities straddled both the manufacturing and the service industry.

18. The learned counsel for the Investor also submitted that the scope of the present appeal was limited as the impugned order only modified the earlier order, which is not the subject matter of challenge in this appeal.

REASONS AND CONCLUSION

19. At the outset, we may note that the impugned order does not set out any reason for restraining the encashment of fixed deposits. The learned District Court had noted that there was an amount of ₹1,02,00,000/- (One Crore Two Lakhs) under three fixed deposits in the Company's name. The learned District Court held that the Fixed Deposits cannot be permitted to be broken because it would cause a financial loss to the Company if the appellants were allowed to break the same before the due date. The relevant extract of the impugned order that sets out the reason for restraining the appellants from utilizing the fixed deposits is reproduced below:

> "If at this stage the respondents are allowed to break them before due date then it will cause financial loss to the respondent No.1 company and as per available records there is no other huge amount is there in company's account."

20. At this stage, it would also be material to refer to the order dated 03.05.2025, whereby the *ex parte* order dated 22.04.2025 was modified to allow the banking operations. The learned District Court noted that the Company was incorporated for the business of developing, manufacturing, marketing, and distributing beverages,

and therefore bank transactions were necessary for running the business, which would not run without the employees.

21. It is material to note that the order dated 22.04.2025 does not set out any reason for granting the said order except that if the said interim relief was not granted, the purpose of filing the application under Section 9 of the A&C Act would be defeated. A plain reading of the interim order passed clearly indicates that the learned District Court has not examined the agreements, the prima facie case or the balance of convenience. In our view, the impugned order is liable to be set aside on this ground alone, as interdicting a company from accessing its funds by operating bank transactions has wide ramifications for the company, and even at the initial stage, it is necessary for the Court to consider the impact of the *ad* interim orders. It can hardly be disputed that if a company is prevented from accessing its funds to carry out the operations, its business would be adversely affected. Such an order would have the propensity to shut down the company's operations. It is also important to note that the Investor has invested a sum of ₹1,00,10,000/- in subscribing to the CCDs. Although the investor

has made several allegations, there is no averment to the effect that the investor has terminated the CCD agreements.

22. At this stage, it is necessary to understand the nature of a CCD. A CCD is not a debt; it is a hybrid instrument considered to be in the nature of equity, as the company has no obligation to repay it. In **Narendra Kumar Maheshwari v. Union of India and others**[3], the Supreme Court had explained the nature of Compulsorily Convertible Debentures as under:

> "A compulsorily convertible debenture does not postulate any repayment of the principal. The question of security becomes relevant for the purpose of payment of interest on these debentures and the payment of principal only in the unlikely event of winding up. Therefore, it does not constitute a "debenture" in its classic sense. Even a debenture, which is only convertible at option has been regarded as a "hybrid" debenture. <u>Any instrument which is compulsorily convertible into shares, is regarded as an "equity" and not as a loan or debt.</u>"

[emphasis supplied]

23. The Investor's interest in the Company was that of a minority shareholder. Thus, in effect, the impugned order had the effect of interdicting the majority shareholders from effectively conducting the business of the company. Such an order can only be passed in extraordinary circumstances and, *prima facie*, the petition filed by

[3] 1990 SCC (SUPP) 440

the Investor does not disclose any such circumstances which would warrant a drastic ad-interim order of such nature.

24. As noted above, the Investor has made several allegations in his petition; however, the principal allegations appear to be (i) the appellants' failure to provide information; and (ii) a shift in business strategy, which, according to the Investor, is contrary to the representations on the basis of which he had subscribed to the CCDs.

25. The Investor has averred that he disagreed with the Company's product being listed in the Fast Moving Consumer Goods [hereafter, referred to as **'FMCG'**] segment and advised against such listing. He also claimed that he was shocked to discover that the company had introduced additional products such as lemonades, cocktail syrups and iced tea. It is contended that this deviation from the original focus of developing a coffee beverage brand was undertaken without informing him or providing any rationale or justification for the decision.

26. The petition also indicates that the Investor has also made a grievance of the Company introducing a new brand 'Wicked Coffee'

without consulting him. He states that he had suggested the Bonomi brand for B2C transactions, recognising its market potential and growth opportunities, but his suggestion was disregarded.

27. The petition is replete with averments to the effect that the Investor was not included in the management decisions regarding the business of the Company.

28. The learned counsel appearing for the Investor had also earnestly contended that there was a shift in the business that was contrary to the representations made by the promoters (appellant No.2 and respondent No.2) at the material time.

29. A plain reading of the CCD agreement indicates that its contents do not support the aforesaid averments. The CCD Agreement does not contain most of the representations that the Investor alleges were made and on the basis of which he subscribed to the CCDs.

30. Clause 1.1.6 of the CCD-2 Agreement dated 07.09.2023 defines the term 'business' as having the same meaning as

described in recital (B) of the CCD Agreement. The said recital reads as under.

> "B. The Company is primarily in the beverage business under the brand name of "BONOMI." BONOMI is a beverage brand building a house of ready to drink beverages (the **'Business'**)."

31. A plain reading of the term 'business' indicates that the company's business was not confined to coffee alone, but also included ready-to-drink beverages. Thus, the contention that the company had entered into the business of marketing iced tea and other ready-to-drink beverages, and that this was contrary to the representation made, is, *prima facie,* unsustainable.

32. The CCD agreement also explicitly provided the purpose for which the CCD subscription amount would be utilized. Clause 5 of the CCD agreement reads as under.

> "5. **USE OF SERIES SEED CCD SUBSCRIPTION AMOUNT**
>
> The Series Seed CCD Subscription Amount shall be utilized by the Company for the growth and development of the business, and as decided by the Board from time to time."

33. According to the Investor, the funds invested by him could not be utilised for operational purposes. However, a plain reading

of the CCD Agreement indicates that the funds were to be utilised for the growth and development of the business, and as decided by the Board of Directors. The CCD Agreement explicitly sets out a detailed set of warranties. However, *prima facie*, we do not find that any specific warranty is breached.

34. As noted above, the Investor was also a signatory to the SHA. The same also describes the business of the company. It is relevant to refer to recital 'A' of the SHA, which reads as under.

> "A. BONOMI started off as a D2C firm in the RTD cold coffee and milk coffee space. Model of distribution for the same has been quick commence, HoReCa and supermarkets. Basis the firm's new direction, BONOMI getting into offline compact retail outlets to kickstart its 'grab and go' freshly brewed coffee business which is going to have food accompaniments as well. Company also plans to build vertically integrated backend capability for the same to keep costs and experience in-check. It is going to expand to tier 1 and tier 2 cities in India as neighborhood everyday coffee chain through company owned and franchise outlets. ("**Business**")."

35. The contention that the strategic shift in the business was contrary to the representations made to the investor is *prima facie* unsustainable, considering that the Investor is a signatory to the SHA, which clearly stated that the Company was also venturing into compact retail outlets.

36. The Investor's grievance that his strategic advice regarding the business of the Company has been disregarded, *prima facie*, does not give rise to any actionable claim. The CCD agreement does not provide that the Investor will participate in the business decisions of the Company. Thus, the allegation that the Investor was excluded from such decision making process may not be actionable. The CCD agreement specifically provides that the Company will be managed by its board. The SHA also expressly provides regarding Corporate Governance as under:

> "2. **CORPORATE GOVERNANCE**
>
> 2.1 The Company shall be operated and managed by the Board. The Board shall be responsible for managing and conducting the Business, operations and administration of the Company and all officers of the Company shall report to and work under the supervision of the Board."

37. Article 2 of the SHA sets out the terms of the CCD agreement regarding 'corporate governance', which include matters such as the composition of the Board of the Company; the manner in which Board meetings are to be held; the quorum of such meetings; and the meetings of the shareholders and security holders. It also expressly sets out the information rights of the parties.

38. *Prima facie*, the averments made in the petition do not establish that any of the clauses of the SHA regarding corporate governance had been breached. Insofar as the information rights are concerned, the Investor is entitled to certain information from the Company. If the same had been denied, it was open for the Investor to seek a direction for providing such information. In view of the above, we are unable to accept that the interim order, as passed, is sustainable.

39. The next question to be addressed is whether the District Court has the jurisdiction. It is contended on behalf of the appellants that the dispute between the parties is a commercial dispute and therefore the petition under Section 9 of the A&C Act is required to be instituted before the Commercial Court.

40. The Investor disputes the same and submits that the dispute does not fall within any of the clauses of Section 2(1)(c) of the CC Act. Undeniably, the disputes involved are commonly understood as commercial disputes. However, it is necessary to determine whether the disputes fall within the meaning of a commercial dispute under Section 2(1)(c) of the CC Act. There is no dispute that the said definition is exhaustive, and for a dispute to be

considered as a commercial dispute, it is necessary that the dispute is covered under one or more clauses of Section 2(1)(c) of the CC Act. In the present case, clause (xii) and (xiii) of Section 2(1)(c) are relevant and are set out below.

> "2. **Definitions**.—(1) In this Act, unless the context otherwise requires,—
>
> (c) "commercial dispute" means a dispute arising out of—
>
> (i) ** ** **
>
> (xii) shareholders agreements;
>
> (xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services"

41. According to the respondent, none of the agreements between the parties falls within the description of a shareholders' agreement. However, this contention is premised on an erroneous assumption that the CCD agreement is an agreement for subscription of debt alone. However, as noted above, CCD is not pure debt; it is, in essence, equity as explained by the Supreme Court in **Narendra Kumar Maheshwari** (*supra*). The company has no liability to repay the same except in the event of liquidation.

42. Thus, subscribing to the CCDs was, in essence, investing in the equity of the company. Additionally, the Investor averred in the

petition that subscription to the CCDs was also the consideration for acquiring 5% of the Company's shares. Paragraph 23 of the petition is set out below:

> "23. As things stood thus, in May 2024, the Petitioner called upon Respondents No. 2 and 3 to honour their commitment, which entitled the Petitioner to a 5% equity stake in Respondent No.1 Company in consideration for subscribing to CCDs amounting to an additional sum of ₹70,00,000/- (Rupees Seventy Lakhs Only). After due deliberation and initial hesitation, Respondents No.2 and 3 agreed to transfer 2.5% of their respective shares from their existing pool in favour of the Petitioner. Consequently, vide share certificates dated 08.05.2024, bearing Certificate Nos.4 and 10, the Petitioner became a 5% shareholder in the Respondent No.1 Company. Copies of the share certificates issued are produced herewith as **Document No.12**."
>
> [emphasis supplied]

43. Admittedly, the promoters of the company had transferred 5% of the equity capital for 500 shares. The scheduled SHA expressly records that the investor holds those 500 shares.

44. The CCD agreements also contain clauses regarding the conduct of business prior to completion, the manner and use of the funds contributed.

45. The SHA is an exhaustive agreement entered into by all shareholders (both promoters and other shareholders of the company) along with other investors. The SHA contains exhaustive

clauses regarding conduct of the affairs of the company and the respective rights of members of the Board and the shareholders.

46. It also contains provisions regarding tag-along rights, which entitle security holders to insist that their holdings be sold if any other security holder sells its holding.

47. It was contended on behalf of the Investor that he had filed the petition to seek interim measures of protection only in the context of the CCD agreements. However, this is contrary to the averments made in the petition. The Investor had expressly stated in the petition at para 41 of Arbitration Application No.33/2025 that "*In the aforesaid backdrop, the petitioner is left with no option but to invoke the arbitration clause under the CCD Agreements and the SHA, seeking for redressal of his grievances*.."

48. The SHA is, undeniably, a shareholders' agreement. It includes clauses specifying matters regarding the conduct of the affairs of the company; the rights of the promoters and other shareholders; and the constitution of the Board of Directors of the Company. All shareholders in the company are signatories to the SHA. Whilst the learned counsel did not dispute that the SHA

would fall within the category of shareholders' agreement, he contended that the petition under Section 9 of the A&C Act was not filed in anticipation of arbitration under the SHA. As stated above, we are unable to accept this contention in view of the express averments made in the petition.

49. In view of the above, the disputes between the parties are commercial disputes within the meaning of Section 2(1)(c)(xii) of the CC Act.

50. Additionally, the disputes are also covered under clause 2(1)(c)(xiii) of the CC Act, which concerns disputes arising out of the subscription and investment agreements pertaining to the service industry.

51. There is no dispute that the Company is also engaged in providing services. The SHA specifies that the Company's distribution model "is quick commerce, HoReCa, and supermarkets" and it is also venturing into offline retail outlets for freshly brewed coffee along with food accompaniments.

52. Thus, the company cannot be classified as a pure manufacturing company; it is also engaged in the services industry,

and thus, the disputes arising from the CCD agreements are the disputes arising from "subscription and investment agreements pertaining to a service industry."

53. In view of the above, the appeal is allowed.

54. The impugned order, to the extent that it restrains the appellants from accessing and utilising the company's fixed deposit amounts, is set aside. In view of our conclusion, the Investor is at liberty to seek the return of the petition for presentation before an appropriate court.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

KPS/KMV