



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 7<sup>TH</sup> DAY OF JANUARY, 2026**

**PRESENT**

**THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE**

**AND**

**THE HON'BLE MR. JUSTICE C.M. POONACHA**

**COMMERCIAL APPEAL NO. 175 OF 2025**

**BETWEEN:**

1. M/S KOTAK SECURITIES LTD  
(A BODY CORPORATE INCORPORATED  
UNDER THE COMPANIES ACT 1956)  
HAVING IT REGISTERED OFFICE AT  
8<sup>TH</sup> FLOOR, KOTAK INFINITY BUILDING  
GENERAL A. K. VAIDYA MARGA  
MALAD EAST, MUMBAI - 400 097  
REPRESENTED BY IT AUTHORIZED  
OPPOSITE FILM CITY  
MR. PRAVEEN KUMAR. K  
S/O. VENKATAIAH  
AGED ABOUT 41 YEARS  
M/S KOTAK SECURITIES LTD.  
CRN CHAMBERS, NO.13  
1<sup>ST</sup> FLOOR, KASTURBA ROAD  
BANGALORE - 560 001

...APPELLANT

(BY SRI. VENKATESH MURTHY G R, ADVOCATE)

**AND:**

1. MR SUDEEP R PRASAD  
S/O. RAMA PRASAD  
AGED ABOUT 51 YEARS  
R/AT NO.2/1, 13<sup>TH</sup> CROSS  
OPPOSITE KEEB  
MALLESWARAM,  
BENGALURU-560003

...RESPONDENT



THIS COMMERCIAL APPEAL IS FILED UNDER SECTION 13 (1-A) OF COMMERCIAL COURT ACT R/W SEC.37 OF THE ARBITRATION AND CONCILIATION ACT, PRAYING TO SET ASIDE THE IMPUGNED JUDGMENT ANNEXURE A PASSED IN COMMERCIAL ARBITRATION PETITION NO.30/2024 ON THE FILES OF LXXXVII ADDITIONAL CITY CIVIL JUDGE, COMMERCIAL COURT, BENGALURU CCH 88 THEREBY ALLOWING THE PETITION FILED BY APPELLANT IN COM.AP 30/2024.

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

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE  
and  
HON'BLE MR. JUSTICE C.M. POONACHA

**ORAL JUDGMENT**

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

1. The appellant [hereinafter referred to as "**KSL**"] has filed the present appeal under Section 37 of the Arbitration and Conciliation Act, 1996 [**A&C Act**] impugning an order dated 21.01.2025 [**impugned order**] passed by the learned Commercial Court in Com. A.P.No.30/2024 captioned *M/s. Kotak Securities Limited vs. Mr.Sudeep R Prasad*.

2. KSL had filed an application under Section 34 of the A&C Act impugning an arbitral award dated 25.10.2023 [**impugned award**]



rendered by an appellate Arbitral Tribunal comprising of three arbitrators [**Arbitral Tribunal**].

3. The Arbitral Tribunal had rendered the impugned award pursuant to the challenge laid by KSL to an award dated 21.07.2023 passed by the sole arbitrator [hereafter '**the sole arbitrator**'] , appointed under the by-laws of National Stock Exchange of India Limited [**NSE**]. The sole arbitrator had delivered the said award pursuant to the arbitral proceedings instituted by KSL assailing the order dated 21.10.2022 passed by the Grievance Redressal Committee [**GRC**] of NSE in a complaint preferred by the respondent.

4. KSL is a registered stock broker with NSE as well as the Bombay Stock Exchange Limited [**BSE**]. It is also a registered depository participant with CDSL and NDSL.

5. The respondent and his family members had opened trading and DEMAT accounts with KSL.



### **The complaint**

6. The respondent filed a complaint with the GRC alleging that KSL had unauthorisedly sold the following shares:

- (i) 180 shares of Larsen & Turbo Limited
- (ii) 235 shares of Rashtriya Chemicals and Fertilisers Limited
- (iii) 172 shares of Reliance Industries Limited
- (iv) 6 shares of Tata Steel Limited

7. The respondent raised a claim of ₹8,14,391/- being the market value of the said shares as on 18.10.2021. Additionally, the respondent alleged that KSL had violated the settlement rule, which required settling the dues two days after the date of the trade (T+2) rule and instead of settling the dues had charged interest, which was not permissible.

### **GRC's decision**

8. The GRC found that there were credit balances in the accounts of the family members of the respondent and the said amounts had not been adjusted from the debit balance appearing in the accounts of the respondent at the material time. As on



24.09.2010, there was a net credit balance of ₹61,507.08 in the accounts of the respondent and his immediate family members. Thus, on a consolidated basis, KSL owed an amount of ₹61,507.08 to the respondent and his family members. Notwithstanding the same, KSL had charged an amount of ₹6,67,251/- as interest and depository charges [DP] of ₹20,849.48. In the aforesaid circumstances, the GRC framed the following points for consideration:

- a. Whether the trading member is justified in charging interest of Rs.6,67,251 considering the fact that post transfer of credit balances from the accounts of parents into the accounts of Sudeep Prasad and Veena Prasad there was credit balance of Rs.6157.08 in the latter accounts
- b. Whether the complainant is eligible for compensation of Rs.8,14,391/- being price difference in respect of shares sold by the trading member on 30.6.2020 and on 21.8.2020.
- c. Whether there was undue delay in raising the issue in 2020 of interest charged in 2010
- d. The trading member has informed that the matter of transfer of credit balances in the family accounts with them bearing claim code: RJR17, RDOP3, Q5764 and VRP80 raised by Mr.Rama Prasad for his and his family accounts was already under litigation hence was subjudice. Whether in fact the matter was subjudice?"



9. GRC found that since there was a credit balance, in the account of the respondent and his family members on a consolidated basis, the interest charged by KSL on the debit balances in the individual account of the respondent, was not justified. Accordingly, the GRC held that the amount of interest recovered was required to be refunded. The GRC also found that the sale of shares by KSL without any instructions from the respondent for recovering of the alleged debt, was wrongful.

10. In view of the aforesaid findings, the GRC accepted the respondent's claim for compensation for the unauthorized sale of shares by KSL.

11. The operative part of the GRC's order dated 21.10.2022 is reproduced below:

"8. Award:

Compensation for unjustified debits of interest from  
24.9.2010:

|                                       |                |
|---------------------------------------|----------------|
| a. Interest charged into the accounts | Rs.6,67,251.00 |
| b. Less: DP charges                   | Rs. 20,849.48  |
| c. Net amount payable                 | Rs.6,46,401.52 |



Compensation for unwarranted sale of shares

Rs.7,79,790.75

**Total: Rs.14,26,192.27**

**ORDER OF THE GRC**

In view of the above, I order the trading member to pay Rs.14,26,192.27 to the complainant within seven days of receipt of this order.”

**Reference to the sole arbitrator**

12. Aggrieved by the GRC’s order, KSL raised dispute and sought reference of the same to the sole arbitrator constituted in accordance with the relevant rules and bye-laws of NSE. The said disputes were, accordingly, referred to the sole arbitrator.

13. KSL filed its statement of claims before the learned sole arbitrator. KSL claimed that the respondent was under a contractual obligation to pay the amounts outstanding to the debit of its accounts in the year 2010. Since the respondent had not cleared the debit balance in its account, KSL had charged interest on the same and had subsequently liquidated the shares in the respondent’s DEMAT account to recover the long outstanding amount. It is material to note that it was not the KSL’s case that



the credit balances lying in the account of the respondent's family members could not be adjusted against the debit balance of the respondent's account. KSL did not dispute that if the credit balances had been so adjusted, there would be a net credit balance of ₹61,507.08.

14. The reference made at the instance of KSL culminated in an arbitral award dated 21.07.2023. The learned sole arbitrator rejected the challenge to the findings rendered by the GRC. However, the sole arbitrator held that whilst the respondent would be entitled to the sale consideration of the shares that were unauthorisedly sold; it would not be entitled to the loss due to increase in the market value of the shares subsequently.

15. It is material to note that the learned sole arbitrator accepted that the credit balances lying in the accounts of the parents of the respondent could be adjusted against the debit balance in the respondent's account with KSL. It specifically found that the trading account opened by the respondent was with an additional facility of adjusting the amount from the accounts of the family members.



16. In view of the above, the quantum of the compensation amount awarded was reduced to ₹11,22,887.52.

### **Appeal to the Arbitral Tribunal**

17. The KSL preferred an appeal before the Arbitral Tribunal. The Arbitral Tribunal observed that KSL would not have resorted to sale of shares had they adjusted the debit balance in the respondent's account against the credit balance in the account of his father in September 2010.

18. KSL contended before the Arbitral Tribunal that it could not grant family account facility as the same had been withdrawn by the NSE in February 2020. However, the Arbitral Tribunal rejected the said contention as it found that the Circular dated 11.02.2020 had been withdrawn. The Arbitral Tribunal rendered an impugned award directing KSL to pay ₹11,50,744.28 to the respondent within a period of thirty days failing which it would carry @ 8% interest till the date of settlement.

19. The KSL had preferred an appeal before the learned Commercial Court assailing the impugned award on several



grounds. It was KSL's claim that it was not bound to transfer funds *inter se* between the family members. However, the learned Commercial Court did not find that the impugned award was vulnerable on the ground of being opposed to public policy. Accordingly, by the impugned order, the learned Commercial Court rejected KSL's application to set aside the impugned award.

**Submissions advanced by the counsel**

20. The learned counsel appearing for KSL assailed the impugned award on a solitary ground. He claimed that the impugned award was vitiated by patent illegality, as the Arbitral Tribunal had presumed that KSL had a right to transfer the balances *inter se* the family members of the respondent. He submitted that SEBI had issued a circular dated 03.12.2009 to all recognized stock exchanges, which prohibited the stock brokers from settling the account of the client by transfer of funds from other clients. He referred to the said circular dated 03.12.2009, which contained provisions for running account authorization.

21. The learned counsel pointed out that in terms of the said circular the client could specifically authorise a stock broker to



maintain a running account *albeit* subject to conditions which included the condition that there shall be no inter - client adjustment for the purpose of settling of the running account. He submitted that the said conditions were subsequently modified by a circular dated 31.12.2019 issued by NSE, which permitted stock brokers to consider the balances and securities of certain related entities for the purpose of collection and reporting margin. In terms of the said circular, the balances and securities of dependant children and parents could be considered for the purpose of collection and reporting margins.

22. He submitted that after the issuance of said circular, the KSL was authorized to adjust the amount receivable from the respondent from the amount lying to the credit of his family members. However, the same was impermissible in the year 2010.

### **Reasons and conclusion**

23. We have heard the learned counsel appearing for KSL, at length.

24. Concededly, KSL's case before the GRC; the sole Arbitrator; the Arbitral Tribunal; and the learned Commercial Court was quite



contrary to the contention as canvassed before this Court. KSL's statement of claims before the learned sole Arbitrator did not contain any averment to the effect that it was precluded from adjusting the account balance *inter se* the respondent and his family members. On the contrary, it was specifically averred that the respondent and his family members had opened a **DEMAT** and trading account with the facility for adjustment of balance in the family account. The relevant extract of the averments to the said effect made in the statement of claim are reproduced below:

"b. The Applicant submits that in and around 2005, the Respondent along with his family members had opened a demat and trading Account with the Applicant and availed a facility for adjustment of balance in family account whereby all individual accounts were collectively treated as the family account and they were authorized to execute trade in any of the four accounts and treat the credit of funds/securities lying in any account as margin for the purpose of trading on the other accounts as well as settle the credit balances against the debit balance in the other account. A copy of the Account Opening Form executed by the Respondent along with the Policies and Procedures of the Applicant for Client dealings and Rights and Obligations of Stock Broker, Sub-brokers and Clients is annexed herewith and marked as "Annexure - III"

25. It is apparent from the above that it was never in dispute that KSL could adjust the debit balance in the account of the respondent



against the credit balances in the account of his parents. The learned sole arbitrator had noted in the award rendered in respect of KSL's claim, that the trading account opened by the respondent was with the additional facility for adjusting the amount from the family members' account. The sole arbitrator faulted KSL for not adjusting the credit balances at the material time and charging interest on the debit balances while continuing to retain the amount owed to the respondent's family members. We consider it apposite to refer to the following extract from the award dated 21.07.2023 which sets out the aforesaid reasoning:

"6. Though the applicant has raised serious objections against the order of the Learned GRC Member, the applicant has nowhere in his statement of claim denied the fact that the accounts held by the parents were with credit balance as on 2010. The facts available and the records produced herein would disclose that there were amounts to the tune of Rs. 4,03,791.61/- and Rs.12,906.81/- available in the parents' accounts respectively during 2010. As rightly pointed out by the representative of the respondent, had the same been transferred during 2010, the respondent's account would have been with credit balance for being adjusted for debit balance, if any, even during 2010. It is relevant to be mentioned herein that the Demat and Trading account opened by the applicant was with additional facility for adjusting the amount from the family member's accounts. That being so, there is absolutely no explanation offered by the applicant for his failure to transfer the



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funds available in the accounts of the parents at the earliest during 2010. The Applicant has no further explanation as to why the transfer of funds was delayed by more than 10 years and was effected only during 2020. In the absence of any explanation for the applicant's failure to take appropriate steps to mitigate the loss to both the Applicant and the respondent, the debiting of interest and sale of shares are unwarranted and are unjustified. Though an attempt is made by the applicant to show that the facility of adjusting the credit balance from the family's account was suspended during 2019 by virtue of the circular dated 31.12.2019, the same is not applicable to the present case as the outstanding in the present case was relating to 2010."

26. KSL had assailed the said award before the Arbitral Tribunal.

27. The finding of the learned sole arbitrator that the trading account opened by the respondent was with an additional facility, which permitted adjustment of the amount from the accounts of the family members, was not disputed. It was not the KSL's case that it was precluded or prevented in any manner from adjusting the amounts due to the family members of the respondent against the amount recoverable from the respondent. On the contrary, KSL expressly stated that it had the right to transfer funds, but contented that it was not bound to do so.



28. It is relevant to refer to KSL's case as articulated in ground (E) of the statement of appeal filed before the Arbitral Tribunal. The said ground is reproduced below:

"E) The finding that there was failure to transfer funds from the year 2010 is most strange and peculiar for the following reasons: -

- i) At the very first instance it is submitted that the Appellant was not bound to transfer any funds.
- ii) The Respondent was always aware about the debit balance in his account, but never protested the same, or disputed the veracity of the same.
- iii) The Respondent never once called upon the Appellant to adjust his said debit balance, and wipe out the same.
- iv) The Respondent would receive his ledger statements and therefore was aware of the status of his account.
- v) Consequently, the Appellant was not bound or liable to transfer any funds between the family accounts.
- vi) It may be noted that the Appellant has a right to transfer funds, but is not bound or liable to do so in law. The law requires the Appellant to maintain the account and take appropriate steps in to ensure that the account does not become a liability.
- vii) In the instant case, having been fully aware of the status of his account from the year 2010, the Respondent was barred from contending 10 years later that the Appellant ought to have adjusted the accounts earlier. Such an explanation is only a



mere dishonest afterthought on the part of the Respondent, and the Ld. Arbitrator ought to have rejected the Respondents claim on that basis only and not granted any reliefs.

(emphasis added)

29. In view of the above, we do not consider it apposite to permit KSL to set up completely a new case at this stage.

30. Having stated the above, we may also briefly examine KSL's contention that it was not permissible for KSL to adjust the amounts payable to the family members of the respondent from the amounts against the amounts recoverable from the respondent.

31. The learned counsel for KSL relied on paragraph 12 of a communication dated 03.12.2009 issued by the Deputy General Manager, Market Intermediary Regulation and Supervision Department, SEBI. The said paragraph is reproduced below.

**"Running Account Authorization**

12. Unless otherwise specifically agreed to by a Client, the settlement of funds/securities shall be done within 24 hours of the payout. However, a client may specifically authorize the stock broker to maintain a running account subject to the following conditions:

a. The authorization shall be renewed at least once a year and shall be dated.



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- b. The authorization shall be signed by the client only and not by any authorised person on his behalf or any holder of the Power of Attorney.
- c. The authorization shall contain a clause that the Client may revoke the authorization at any time.
- d. For the clients having outstanding obligations on the settlement date, the stock broker may retain the requisite securities/funds towards such obligations and may also retain the funds expected to be required to meet margin obligations for next 5 trading days, calculated in the manner specified by the exchanges.
- e. The actual settlement of funds and securities shall be done by the broker, at least once in a calendar quarter or month, depending on the preference of the client. While settling the account, the broker shall send to the client a 'statement of accounts' containing an extract from the client ledger for funds and an extract from the register of securities displaying all receipts/deliveries of funds/securities. The statement shall also explain the retention of funds/securities and the details of the pledge, if any.
- f. The client shall bring any dispute arising from the statement of account or settlement so made to the notice of the broker preferably within 7 working days from the date of receipt of funds/securities or statement, as the case may be.
- g. Such periodic settlement of running account may not be necessary:
  - i. for clients availing margin trading facility as per SEBI circular
  - ii. for funds received from the clients towards collaterals/margin in the form of bank guarantee (BG)/Fixed Deposit receipts (FDR).
- h. The stock broker shall transfer the funds/securities lying in the credit of the client within one working day of the request if the same are lying with him and within



three working days from the request if the same are lying with the Clearing Member/Clearing Corporation.

i. There shall be no inter-client adjustments for the purpose of settlement of the 'running account'.

j. These conditions shall not apply to institutional clients settling trades through custodians. The existing practice may continue for them."

32. As apparent from the above, the said instructions relate to running account authorization. The said clause enables the client to specifically authorize the stock broker to maintain running account. However, the same was subject to several conditions. One of the conditions – Condition (e) – expressly requires that the actual settlement of funds and securities shall be done by the broker at least once in a calendar quarter or calendar month.

33. In view of the above, if the aforesaid circular was to be followed by KSL in respect of the respondent's account, it would be essential for the accounts to be settled latest by the end of the relevant quarter of the year 2010. There would be no question of the balance being carried forward thereafter. However, the facts indicate that the respondent's account was not squared off in the year 2010. KSL continued to carry the balance forward and



continued to charge interest on the same for about a decade thereafter. Thus, if the KSL contention that the communication dated 03.12.2009 was binding is accepted, it would follow that KSL was required to settle the account latest by the end of the relevant quarter of the year 2010 and its action to recover the same in 2020 would be barred by limitation. However, as noted above, the KSL had never disputed that it had the right to adjust the accounts *inter se* the family members. It had never set out a case that it was necessary to settle the amount latest by the end of the calendar quarter.

34. If the running account was required to be settled in the end of the calendar quarter and the same was not settled, it would be necessary for KSL to close the running account. It is clearly not open for the KSL to contend that it would continue to maintain a running account without any actual settlement. With the closure of the running account, there would be no impediment for KSL to adjust the amounts due in the account of the respondent from the amounts payable by KSL to his immediate family members.



35. In view of the above, we are unable to accept that the impugned award can be interfered with in these proceedings. The present appeal is unmerited and, accordingly, dismissed.

**Sd/-  
(VIBHU BAKHRU)  
CHIEF JUSTICE**

**Sd/-  
(C.M. POONACHA)  
JUDGE**

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List No.: 1 Sl No.: 7