



April 2024

## Supreme Court: Investments with returns in the form of interest are “commercial” transactions and outside the purview of the Consumer Protection Laws

In the recent decision of *Annapurna B. Uppin & Ors. v. Malsiddappa & Anr.*<sup>1</sup> the Supreme Court of India (“**Supreme Court**”) held that investments such as those by which the complainant derives benefit in the form of interest is outside the summary jurisdiction of the Consumer Protection Act, 1986 (“**CP Act**”).

### Brief Facts

1. This judgement has been delivered in the background of a consumer complaint filed by respondent no.1 (“**Complainant**”) who had invested INR 5,00,000 (Indian Rupees five lakh) in the partnership firm which was repayable after 120 (one hundred twenty) months with interest @ 18% p.a. The appellants (opposite parties) are the legal heirs of the Managing Partner of the firm.
2. The Complainant stated before the District Forum (DCDRF, Dharwad, Karnataka) (“**District Forum**”) that he had sought premature release of the invested amount but was asked to wait till maturity. However, even upon maturity, the Complainant did not receive the amount. Aggrieved, he filed a consumer complaint alleging deficiency of service and claiming recovery of the invested amount. The Appellants, *inter alia*, objected to the Complainant being a “consumer” under the Consumer Protection Act, 1986.
3. The District Forum allowed the complaint directing repayment of the invested amount of INR 5,00,000 (Indian Rupees five lakh), with simple interest of 18% for the 120 (one hundred twenty) months, along with interest till realization, compensation, and costs. Despite 2 (two) rounds of remand from the State Commission, the District Forum allowed the complaint on the same terms.
4. The State Commission finally also dismissed the appeal against the decision of the District Forum. The NCDRC also dismissed the revision petition filed before it. Aggrieved, the appellant (opposite parties) filed the civil appeal before the Supreme Court.

### Issue

Whether commercial transactions (investments) are under the purview of the CP Act.

<sup>1</sup> SLP (C) No.11757 of 2022, Supreme Court

## Findings and Rationale

The Supreme Court allowed the civil appeal and set aside the judgements of the District Forum, the State Commission, and the National Commission. The Supreme Court held that the complaint was not maintainable on the basis that:

1. The investment by the Complainant was for deriving benefit by getting an interest on the investment (at the rate of 18 % per annum). Therefore, it would be an investment for profit/gain.
2. It was a commercial transaction and therefore, it was outside the purview of the CP Act. Hence, the complaint was not maintainable.
3. Commercial disputes cannot be decided in a summary proceeding under the CP Act but the appropriate remedy for recovery of the said amount, if any, would be before the Civil Court.

As an aside, the Supreme Court also decided the complainant's contention regarding the liability of the legal heirs in dealing with assets and liabilities of the partnership firm. The Supreme Court reiterated that the legal heirs of a deceased partner (in a partnership firm) not becoming liable for the liabilities of the partnership upon the partner's death.

## Conclusion

The bar on consideration of commercial transactions under the CP Act is inherent to the legislation. However, Courts have had to work around the nuance of whether a purchase or investment is for one's own use (or livelihood) or for a commercial purpose attributing profit motive, as only the latter is outside the purview of the CP Act. Even though the Consumer Protection (Amendment) Act 1993 (and now, the Consumer Protection Act, 2019) introduced an explanation for what constitutes "commercial purpose"<sup>2</sup>, Courts have held to conclude whether a complainant is a "consumer" there is no strait-jacket formula to decide if the use is commercial in nature. It would depend on the facts and circumstances of each case<sup>3</sup> by an evaluation of the evidence tendered by the parties<sup>4</sup>.

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<sup>2</sup> Section 2(7) Explanation (a), CP Act, 2019: The expression "commercial purpose" does not include use by a person of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment.

<sup>3</sup> Lilavati Kirtilal Mehta Medical Trust v. Unique Shanti Developers & Ors., (2020) 2 SCC265

<sup>4</sup> Rohit Chaudhary & Anr. v. M/s Vipul Ltd., (2024) 1 SCC 8

## Consumer Protection Practice

JSA has a vast experience on matters relating to consumer protection laws and related matters. We have advised clients (both domestic and global), across sectors and industries on complex queries around consumer protection laws and rules thereunder, and its interplay with other related legislations, like data privacy and exchange control laws.

We have developed a leading consumer protection practise supported by a group of extraordinarily gifted and experienced solicitors with knowledge of the essential consumer law sector. Our team has experience in managing complex consumer cases at the national level in India. We are renowned for our proficiency in successfully defending the interests of our clients.

Our key areas of advice include:

- Analysis of business activities from consumer protection laws perspective including import regulations and foreign trade policy of India;
- Advise on registration and licensing requirements;
- Advising on e-commerce rules;
- Advise on single brand retail and multi-brand retail from foreign exchange laws perspective;
- Advise on product liability issues and compliances;
- Advising on standards issued by the BIS and quality control orders including advisory in relation to inspection and enquiries by authorities;
- Advising on advertisement, packaging and labelling requirements.









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