



WP(C) NO. 38924 OF 2025.

2025:KER:80559

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

FRIDAY, THE 24<sup>TH</sup> DAY OF OCTOBER 2025 / 2ND KARTHIKA, 1947

WP(C) NO. 38924 OF 2025

PETITIONER:

MATHEW K CHERIAN,  
AGED 67 YEARS  
S/O. LATE CHERIAN, MANAGING DIRECTOR, KOSAMATTAM FINANCE  
LTD, MARKET JN, KOTTAYAM, PIN - 686001

BY ADVS.  
SMT.LIZA MEGHAN CYRIAC  
SRI.JOLLY JOHN  
SMT.C.S.RESHMI  
SMT.TANIA MARIA JOY  
SHRI.RUBIN SHIBU

RESPONDENTS:

- 1 STATE CONSUMER DISPUTES REDRESSAL COMMISSION  
SISUVIHAR LANE, VAZHUTHACAUD, THIRUVANANTHAPURAM  
REPRESENTED BY ITS REGISTRAR, PIN - 695010
- 2 DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION IN KOLLAM  
CHEMMANMUKKU RAILWAY STATION RD, KARBALA, KOLLAM, KERALA  
REPRESENTED BY ITS SECRETARY, PIN - 691001
- 3 LIJI PHILIP,  
KOTTORKALEEKKAL MAKE, NJAKKANAL P.O., OACHIRA, KOLLAM, PIN  
- 690533

SHRI.ARUN AJAY SHANKAR, G.P

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
24.10.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



**CR**

**JUDGMENT**

The petitioner is the opposite party in C.C. No. 205 of 2022 on the file of the District Consumer Disputes Redressal Commission (for short, "the CDRC"), Kollam. The said complaint was filed by the 2nd respondent, alleging deficiency in service on the part of the petitioner, in respect of the payment of interest under a Debenture Scheme floated by Kosamattam Finance Ltd., of which the petitioner is the Managing Director.

2. According to the 3<sup>rd</sup> respondent, he had purchased certain Non-Convertible Debentures (NCDs) from the company. However, in violation of the agreed terms, the interest payable under the said scheme was not disbursed, and in these circumstances, the said complaint came to be filed.

3. On appearance, the petitioner raised the question of maintainability, contending primarily that, the 3rd respondent does not fall within the definition of a "consumer" as per the provisions of the Consumer Protection Act, 2019, and



therefore, the complaint is not maintainable. One of the principal grounds raised by the petitioner was that the Non-Convertible Debentures do not constitute "goods" within the meaning of the Consumer Protection Act, 2019, and since, there was no transaction involving the hiring or availing of services for consideration, the complainant could not be treated as a "consumer" under the Act.

4. As the application filed by the petitioner seeking to have this issue decided as a preliminary issue was not considered by the District Consumer Disputes Redressal Commission, the petitioner approached this Court by filing W.P. (C) No. 7195 of 2023. This Court, as per Ext P5 judgment in the said writ petition, directed the District Commission to consider the question of maintainability as a preliminary issue before proceeding further with the complaint. However, without complying with the said directions, the District Consumer Disputes Redressal Commission proceeded to pass a final order, evidenced by Ext. P6, imposing liability upon the



petitioner. The said order was challenged by the petitioner by filing W.P.(C) No. 42680 of 2023, which culminated in Ext. P7 judgment, whereby this Court allowed the writ petition, set aside the order marked as Ext. P6, and directed the District Commission to first consider and pass orders on the question of maintainability as a preliminary issue.

5. In compliance with the directions contained in Ext. P7 judgment, the District Consumer Disputes Redressal Commission passed Ext. P8 order, wherein, it was held that the complaint is maintainable. The District Commission found that the transaction forming the subject matter of the complaint amounted to a "service," and that the availing of such service for consideration, would satisfy the requirements of a "consumer" as defined under the provisions of the Consumer Protection Act, 2019. Though a Revision Petition was filed challenging the said order, the State Consumer Disputes Redressal Commission, Thiruvananthapuram, by Ext. P11 order, confirmed Ext. P8 order and dismissed the Revision



Petition. The petitioner has, therefore, approached this Court challenging the aforesaid orders.

6. I have heard Sri. Jolly John, the learned counsel appearing for the petitioner. The learned counsel for the petitioner advanced detailed arguments, extensively relying on various judicial decisions, assailing the findings contained in the impugned orders. According to the petitioner, the 3rd respondent cannot be treated as a "consumer" as defined under the Act. Further, the transaction which forms the subject matter of the complaint pertains to the purchase of Non-Convertible Debentures (NCDs), which cannot be treated as "goods", and therefore, the 4th respondent cannot be regarded as a "consumer". It was also contended that, even if the said transaction is treated as a service as found in the impugned order, even then, the District Commission would not have the jurisdiction, as the investment in Non-Convertible Debentures would still be of a commercial nature, as the same was made for making profits.



7. The learned counsel for the petitioner placed reliance upon the decisions rendered by the Hon'ble Supreme Court in ***Annapurna B. Uppin and Ors. Vs. Malsiddappa and Another ( AIR 2024 SC 2015)*** and ***The Chief Manager, Central Bank of India and Ors. vs. AD Bureau Advertising Pvt. Ltd. and Ors. (MANU/SC/0288/2025)***.

8. When it comes to the question as to whether the purchase of a Non-Convertible Debenture (NCD) would amount to a transaction in goods, and thereby excluding the purchaser from a 'consumer' as defined under Section 2(7) of the Consumer Protection Act, 2019, it is to be noted that, even if the said contention is accepted, still, on account of clause (ii) of sub-section (7) of Section 2 of the said Act, 2019, the 3rd respondent could be treated as a consumer. In order to consider the said question, an examination of the definition of the 'consumer' is necessary, which reads as follows:-

*Sec. 2 (7) "consumer" means any person who—  
(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for*



*consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or*

*(ii) hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such service other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person, but does not include a person who avails of such service for any commercial purpose.*

*Explanation.—For the purposes of this clause-*

*(a) 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;*

*(b) the expressions "buys any goods" and "hires or avails any services" includes offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing.*

9. On going through the impugned orders, it can be seen that, this question was specifically considered by the District Commission as well as the State Commission, and after referring to the decision rendered by the National Commission in ***Usha India Ltd. v. Manjul Kishore reported in 1995 (3)***



**NCDRC CK 0015**, it was found that when the Non convertible Debentures are issued, the company accepts money from the party agreeing to repay the money with interest on completion of the said period. Therefore, it would come under the “service” for the purpose of the Consumer Protection Act. The definition of service as defined under section 2(42) of the Act was also referred to, where, Banking, Financing, Insurance, are also specifically included therein. The only exclusion is rendering of any service free of charge. The definition of service as contemplated under section 2(42) of the Act which reads as follows:--

*“service” means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, telecom, boarding or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service.”*

10. Thus, going by the definition of the term ‘Service’ as per the provisions of the Consumer Protection Act, it is given a very wider meaning, and the same is in tune with the



purpose for which the Consumer Protection Act, 2019, is enacted; to ensure the welfare of the consumer, as a class. Therefore, when the expression 'service', is specifically defined under the Act, by including the facilities in connection with Banking and financing, the same has to be given effect to, by extending a wider meaning possible, so as to include all possible transactions forming part of the instances referred to in the said provision. This interpretation is supported by the Hon'ble Apex Court in **Standard Chartered Bank Ltd. v. Dr. B.N. Raman [(2006)5 SCC 727]**. In a decision rendered by the Hon'ble Apex Court in **Vodafone Idea Cellular Ltd. v. Ajay Kumar Agarwal, [(2022) 6 SCC 496]**, it was held that:

*"12. The definition of the expression "service" is couched in wide terms. The width of statutory language emerges from the manner in which the definition is cast. Parliament has used the expression "service of any description which is made available to potential users". The definition employs the "means and includes formula". The means part of the definition incorporates service of "any" description. The inclusive part incorporates services by way of illustration, such as facilities in connection with banking, finance, insurance, transport, processing, supply of electrical and other energy, board or lodging and housing construction. The inclusive part is prefaced by the clarification that the services which are specified are not exhaustive. This is apparent from the*



*expression "but not limited to". The last part of the definition excludes (i) the rendering of any service free of charge; and (ii) services under a contract of personal service. Parliament has confined the exclusion only to two specified categories. The initial part of the definition however makes it abundantly clear that the expression "service" is defined to mean service of any description. In other words, a service of every description would fall within the ambit of the statutory provision."*

Thus, on carefully going through the nature of transactions as revealed from the documents before me, I have no hesitation to hold that, the same would amount to 'service', as defined under Section 2(42) of the Act, 2019, and it is not in dispute that the service in this case was not a free service. Therefore the contention raised by the petitioner in this regard is only to be rejected.

11. When coming to the 2nd aspect of the issue, viz., the commercial nature of the transaction, I am not inclined to accept the same, for two reasons. Firstly, the said contention has not been raised before the District Commission as well as the State Commission. Even though the maintainability of the complaint, as the 3rd respondent was not a complainant, was raised, it was not on account of the commercial nature of the transaction. In other words, such contention was raised not on account of the commercial nature of the transaction but on the reason that the Non Convertible Debenture could not be treated as goods.



12. Even when the aforesaid contention is considered on merits, despite the fact that the same was not raised before the District Commission and the State Commission, I am not inclined to accept the said contention. Of course, it is true that, as rightly pointed out by the learned counsel for the petitioner, in the decision relied on by him i.e., ***Annapurna B. Uppin's case (supra)*** it was held by the Hon'ble Supreme Court, when an investment is made in debentures, expecting 18% simple interest, it would be an investment for profit gain and therefore it would be treated as a commercial transaction. Similar observations made in ***AD Bureau Advertising Private Limited's case (supra)***, as well. However, one crucial distinction to be noted in both the cases is that, the investments made in those cases were by commercial entities or those were the investments made by an individual on behalf of an entity engaged in business activities. To be precise, in ***AD Bureau Advertising Pvt. Ltd's case(supra)***, it was a company that made the investment and in ***Annapurna B. Uppin's case (supra)***, even though the complaint was submitted by an individual, it is evident from the observations made therein that, the said investment was made on behalf of a partnership firm.



13. Besides, the learned counsel also brought to the attention of this Court, the observations in ***Shrikant G. Mantri v. Punjab National Bank [(2022) 5 SCC 42]***, which is referred to in ***AD Bureau Advertising Pvt. Ltd.'s case***. Of course, in ***Shrikant G. Mantri's case***, (supra) the case was that the investments made by an individual. However, it is evident from the observations in the said judgment that, the individual was a stockbroker and the facility availed by the said provision was an overdraft facility from the respondent Bank, which obviously indicates that the same was for the purpose of his business. Therefore, in all the above referred cases, there are materials to indicate that the investments were intended for profit-making, as part of the activities, which were basically commercial in nature.

14. However, in this case, as far as the investments made by the 3rd respondent are concerned, the same were in his individual capacity and there is no case for the petitioner that it was otherwise. When going through the explanation to Section 2(7) where, the expression "commercial purpose' has been explained, it is specifically provided that, the goods used by him exclusively for the purpose of earning his livelihood by means of self employment, has to be excluded



and it would not come under the commercial purposes. Therefore the term “commercial purposes” as explained in the aforesaid clause, has to be understood with reference to the same. When we refer to earning for livelihood, a narrow meaning to the same, by confining to the basic amenities of life, such as bread and butter, home, clothes or maintenance of the same etc, cannot be adopted, but, it could include the additional income for better living standards also. So long as such investments are not for the purpose of making a profit in a commercial nature, when it comes to the case of individuals, it has to be treated as for livelihood, where, the “livelihood” would take in, the investment made for proper returns to ensure a better standard of life or to secure financial stability in future. Certainly, a distinction to that extent has to be drawn with the commercial entities making investment for more profits for the institution, or in a case where, an individual is making investments, on behalf of the commercial entities or to improve the business in which he is engaged in. The Hon’ble Apex Court while interpreting the definition of “Consumer” under Section 2(d)(i) of Consumer Protection Act, 1986 and the Explanation added by 1993 Amendment Act in ***Laxmi Engineering Works v. P.S.G. Industrial***



**Institute [(1995) 3 SCC 583]**, it was observed that;

"11. Now coming back to the definition of the expression 'consumer' in Section 2(d), a consumer means insofar as is relevant for the purpose of this appeal, (i) a person who buys any goods for consideration; it is immaterial whether the consideration is paid or promised, or partly paid and partly promised, or whether the payment of consideration is deferred; (ii) a person who uses such goods with the approval of the person who buys such goods for consideration; (iii) but does not include a person who buys such goods for resale or for any commercial purpose. The expression 'resale' is clear enough. Controversy has, however, arisen with respect to meaning of the expression "commercial purpose". It is also not defined in the Act. In the absence of a definition, we have to go by its ordinary meaning. 'Commercial' denotes "pertaining to commerce" (Chamber's Twentieth Century Dictionary); it means "connected with, or engaged in commerce; mercantile; having profit as the main aim" (Collins English Dictionary) whereas the word 'commerce' means "financial transactions especially buying and selling of merchandise, on a large scale" (Concise Oxford Dictionary). The National Commission appears to have been taking a consistent view that where a person purchases goods "with a view to using such goods for carrying on any activity on a large scale for the purpose of earning profit" he will not be a 'consumer' within the meaning of Section 2(d)(i) of the Act. Broadly affirming the said view and more particularly with a view to obviate any confusion — the expression "large scale" is not a very precise expression — Parliament stepped in and added the explanation to Section 2(d)(i) by Ordinance/Amendment Act, 1993. The explanation excludes certain purposes from the purview of the expression "commercial purpose" — a case of exception to an exception. Let us elaborate : a person who buys a typewriter or a car and uses them for his personal use is certainly a consumer but a person who buys a typewriter or a car for typing others' work for consideration or for plying the car as a taxi can be said to be using the typewriter/car for a commercial purpose.



*The explanation however clarifies that in certain situations, purchase of goods for "commercial purpose" would not yet take the purchaser out of the definition of expression 'consumer'. If the commercial use is by the purchaser himself for the purpose of earning his livelihood by means of self-employment, such purchaser of goods is yet a 'consumer'. In the illustration given above, if the purchaser himself works on typewriter or plies the car as a taxi himself, he does not cease to be a consumer. In other words, if the buyer of goods uses them himself, i.e., by self-employment, for earning his livelihood, it would not be treated as a "commercial purpose" and he does not cease to be a consumer for the purposes of the Act. The explanation reduces the question, what is a "commercial purpose", to a question of fact to be decided in the facts of each case. It is not the value of the goods that matters but the purpose to which the goods bought are put to. The several words employed in the explanation, viz., "uses them by himself", "exclusively for the purpose of earning his livelihood" and "by means of self-employment" make the intention of Parliament abundantly clear, that the goods bought must be used by the buyer himself, by employing himself for earning his livelihood. A few more illustrations would serve to emphasise what we say. A person who purchases an auto-rickshaw to ply it himself on hire for earning his livelihood would be a consumer. Similarly, a purchaser of a truck who purchases it for plying it as a public carrier by himself would be a consumer. A person who purchases a lathe machine or other machine to operate it himself for earning his livelihood would be a consumer. (In the above illustrations, if such buyer takes the assistance of one or two persons to assist/help him in operating the vehicle or machinery, he does not cease to be a consumer.) As against this a person who purchases an auto-rickshaw, a car or a lathe machine or other machine to be plied or operated exclusively by another person would not be a consumer. This is the necessary limitation flowing from the expressions "used by him", and "by means of self-employment" in the explanation. The ambiguity in the meaning of the words "for the purpose of earning his livelihood" is explained and*



*clarified by the other two sets of words."*

In ***Daimler Chrysler (India) (P) Ltd. v. Controls & Switchgear Co. Ltd., (2025) 1 SCC 534***, interpreted the word "commercial purpose" in the following terms;

*"19. .... ordinarily "commercial purpose" is understood to include manufacturing/industrial activity or business-to-business transactions between commercial entities. The purchase of the goods should have a close and direct nexus with a profit-generating activity. It has to be seen whether the dominant intention or dominant purpose for the transaction was to facilitate some kind of profit generation for the purchaser and/or their beneficiary. If it is found that the dominant purpose behind purchasing the goods was for the personal use and consumption of the purchaser and/or their beneficiary, or was otherwise not linked to any commercial activity, the question of whether such a purchase was for the purpose of "generating livelihood by means of self-employment" need not be looked into. Again, the said determination cannot be restricted in a straitjacket formula and it has to be decided on a case-to-case basis.*

15. Thus, in this case, nothing is revealed before this Court to show that the investments made by the 3rd respondent in his individual capacity, are connected with any commercial activity so as to treat him, not as a "consumer", as defined under subsection 7 of Section 2 of the Act. As mentioned above, the decisions relied on by the learned counsel for the petitioner were rendered in a different set of



circumstances, where the investments were not made in individual capacity, but for commercial purposes by the persons concerned. In this regard, the observations, made by the Hon'ble Supreme Court in ***Lilavati Kirtilal Mehta Medical Trust v. M/s. Unique Shanti Developers*** [(2020) 2 SCC 265, which is referred to in **AD Bureau Advertising Pvt. Ltd., and others** (supra), are relevant which reads as follows:

*"19. To summarise from the above discussion, though a straitjacket formula cannot be adopted in every case, the following broad principles can be culled out for determining whether an activity or transaction is "for a commercial purpose"*

*19.1. The question of whether a transaction is for a commercial purpose would depend upon the facts and circumstances of each case. However, ordinarily, "commercial purpose" is understood to include manufacturing/industrial activity or business-business transactions between commercial entities.*

*19.2. The purchase of the good or service should have a close and direct nexus with a profit-generating activity.*

*19.3. The identity of the person making the purchase or the value of the transaction is not conclusive to the question of whether it is for a commercial purpose. It has to be seen whether the dominant intention or dominant purpose for the transaction was to facilitate some kind of profit-generation for the purchaser or their beneficiary.*

*19.4. If it is found that the dominant purpose behind purchasing the good or service was for the personal use and consumption of the purchaser and/or their beneficiary, or is otherwise not linked to any commercial activity, the question of whether such a purchase was for the purpose of "generating livelihood by means of self-employment"*



*need not be looked into.”*

16. Here, as observed above, when an individual is making investments in his individual capacity for better profits to make his life better, under no circumstances, that could be treated as a commercial purpose, as explained in the explanation to Subsection 7 of Section 2. It is also to be noted in this regard that, the purpose of the enactment of the Consumer Protection Act, 2019, is to ensure the welfare of the consumers and a wider interpretation has to be adopted for the term ‘consumer’, when it comes to the transactions in individual capacity, so as to include all eligible persons, and exclusions should be exceptions where, transactions clearly indicate the commercial element therein. The entire Act revolves around the consumer and is designed to protect his interest. The Act provides for “business-to-consumer” disputes and not for “business-to-business” disputes , as observed in ***Laxmi Engineering Works (Supra)*** .In other words, the interpretation that has to be made, should be by adopting a



policy to include the person concerned, and only if exceptional circumstances are made out, the exclusion should be made.

17. Thus, after carefully going through the entire materials placed before this Court, I find that no interference is warranted in the orders passed by the District Commission as well as the State Commission. As far as the other contentions raised by the petitioner with regard to the merits of the case is concerned, I am not expressing any opinion, as what was decided by the District Commission and the State Commission, was with respect to the maintainability of the complaint, and other matters are to be decided by the District Commission on merits.

In such circumstances, this writ petition is dismissed, leaving open all the contentions of the petitioner other than those related to the maintainability of the complaint. At this juncture, the learned counsel for the petitioner requested for keeping the further proceedings in C.C. 205/2022 on the files of 2<sup>nd</sup> respondent Commission, in abeyance for a short period,



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so as to enable the petitioner to challenge this judgment, by invoking his remedies. Therefore, it is ordered that, the proceedings in the above complaint shall be kept in abeyance, till the expiry of ten days from the date of the receipt of the copy of this judgment.

Sd/-

**ZIYAD RAHMAN A.A.  
JUDGE**

sjb/pkk



APPENDIX OF WP(C) 38924/2025

PETITIONER EXHIBITS

|             |                                                                                                                                                                                 |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Exhibit P1  | TRUE COPY OF THE DEBENTURE CERTIFICATE DATED 21.12.2011                                                                                                                         |
| Exhibit P2  | TRUE COPY OF THE RBI INSPECTION REPORT DATED 23.03.2015 ALONG WITH COMPLIANCE OF COMPANY WITH ONLY RELEVANT PAGES                                                               |
| Exhibit P3  | TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER DATED 09.05.2022                                                                                         |
| Exhibit P4  | TRUE COPY OF THE COMPLAINT CC 205/2022 PENDING BEFORE THE CDRC KOILLAM FILED BY THE 3RD RESPONDENT DATED 17.06.2022                                                             |
| Exhibit P5  | TRUE COPY OF THE JUDGMENT DATED 19.06.2023 OF HON'BLE HIGH COURT OF KERALA, IN WPC 7195/2023                                                                                    |
| Exhibit P6  | TRUE COPY OF THE FINAL ORDER IN CC 205/2022 PASSED BY 2ND RESPONDENT DATED 25.10.2023                                                                                           |
| Exhibit P7  | TRUE COPY OF THE JUDGMENT DATED 28.02.2024 OF HON'BLE HIGH COURT OF KERALA, IN WPC 42680/2023                                                                                   |
| Exhibit P8  | TRUE COPY OF THE ORDER OF CDRC KOLLAM IN IA.9(A)/2023 IN CC 205/2022 DATED 07.05.2025                                                                                           |
| Exhibit P9  | TRUE COPY OF THE ORDER OF 2ND RESPONDENT CDRC KOLLAM IN IA.9/2023 IN CC 205/2022 DATED 07.05.2025                                                                               |
| Exhibit P10 | TRUE COPY OF THE REVISION PETITION 29/2025 FILED BY THE PETITIONER U/S 47 (1) (B) OF THE CPA 2019 DATED 28.05.2025 FILED ON 30.05.2025 BEFORE 1ST RESPONDENT, WITHOUT DOCUMENTS |
| Exhibit P11 | TRUE COPY OF THE ORDER DATED 23.07.2025 OF THE 1ST RESPONDENT IN THE REVISION PETITION 29/2025 FILED BY THE PETITIONER                                                          |
| Exhibit P12 | TRUE COPY OF THE ORDER DATED 16.05.2025. PASSED BY NCDRC IN NC/DN/2/2025                                                                                                        |