

**IN THE COURT OF JUDGE, COMMERCIAL COURT (SENIOR CIVIL JUDGE
CADRE), COIMBATORE**

Present: Thiru. C.B. VEDAGIRI, B. Pharm., MS IT (AUS), LLM, Judge
Commercial Court, (Senior Civil Judge Cadre)
Coimbatore

Dated this the 30th Day of March 2026, Monday

C.O.S. No. 282 of 2025
(CNR.No.TNCB23-000702-2025)

M/s. Pentacle Newyork Company,
Coimbatore.
Rep by its Proprietor Deepa Ramalingam

... Plaintiff

//Vs//

M/s. NSR Decors,
Coimbatore.
Rep by its Proprietor S Sakthivel

... Defendant

This Original Suit came up before me for final hearing in the presence of Ms. S Malini, Advocate for the Plaintiff and Thiru. N. Hariprasad, Advocate for the Defendant. Upon hearing the counsel for the plaintiff and defendant perusing the materials available in the case records and having stood over this case for consideration till this date and this court delivered the following...

JUDGMENT

The Suit has been filed by the Plaintiff against the Defendant for the relief of recovery of sum of **Rs.3,57,000/-** along with interest at the rate of **11.80%** per annum from the date of suit till the date of realization with cost to the Plaintiff.

1. The Plaintiff Averments which are found essential for the Disposal of the Suit is that:

The plaintiff is a proprietorship company namely M/s. Pentacle Newyork Company doing a business of e-commerce retail, manufacturing of steel related products, wooden-category related products, cotton bag related products, machine UV related products and exports operating under a B2C model and the proprietor of Defendant had approached the plaintiff company for a job. The plaintiff created a new online shop with total investment from plaintiff's company holding the name of the defendant, GST and a Bank Account bearing the proprietor of defendant name. Subsequently the defendant was created an agreement between the defendant and the plaintiff company on 16.06.2023 for defendant online shop and the corresponding agreement had a validity of two years with some conditions. The defendant has breached the agreement before completion of two years by not paying any amount to the plaintiffs company and also intentionally grabbed the online shop which is illegal, causing irreparable loss and injury to the plaintiff and all the investments were made by the plaintiff's company. The plaintiff tried to reach out the defendant to sort out the issue which was in vain, thereby the plaintiff sent Legal Notice to the defendant on 11.03.2025. The defendant had approached the plaintiff for undergoing a

settlement and after discussion between the plaintiff and defendant, the defendant accepted all the terms and conditions and there was a mutual understanding agreement drafted and signed by both plaintiff and defendant on 02.04.2025 and it was notarized. The defendant transferred Rs.50,000/- through payment side (Phonepe) to plaintiff's personal account on 10.04.2025, the agreement was accepted for usage of the designs only but ownership is not transferred and no information related to the source files were made in the agreement but the defendant forced the plaintiff to give the source files. The plaintiff denied giving the source files there was a separate expense made to it, in order to deceive the plaintiff intentionally asked for source files which is not mentioned anywhere also by not paying the amount the next month from 10.05.2025. There was a legal notice sent to the plaintiff by the defendant stating that there was a breach of agreement whereas the breach was made by the defendant and the plaintiff was given a reply notice to the defendant on 23.05.2025. Finally the plaintiff has filed the application before Pre-Institution Mediation on 02.06.2025 in PIM No. 505/2025, the defendants appeared for mediation but they have refused to turn back for mediation and it was treated as Non Starter on 02.07.2025. There is no intention on the part of the defendant to liquidate the amounts and therefore the plaintiff is constrained to file the present suit against the defendant for the recovery of amount of Rs.3,57,000/- along with interest.

2. The notice was issued to the defendant through court and post. The court summons to the defendant was being served and the postal summons was returned as "No such

person in the Address”. Upon receipt of summons, the defendant has entered appearance before the court through their counsel. Further the defendant counsel has filed a memo praying to refer the suit matter to Mediation. Accordingly this Court directed both parties and their counsels to appear before Mediation Center, Coimbatore on 20.11.2025, subsequently this court received the Mediation report as “Not Settled”. Further the defendant has failed to file the written statement along with statement of truth and hence this court has forfeited the rights to file the written statement by the defendant on 20.01.2026 and accordingly allowed the defendant to cross examine the plaintiff witness. Consequently Advocate Mr. N. Hariprasad, filed the change of vakalath for defendant.

3. Point for determination:

Whether the plaintiff is entitled for recovery of suit amount as prayed for?

4. On the side of the plaintiff, the plaintiff was examined as PW1 and the documents from Ex.A1 to Ex.A10 were marked through PW1. PW1 was cross examined by the defendant. Though the defendant has participated in the court proceedings, has not let in any oral and documentary evidence before this court as the right to file written statement has been forfeited. After completion of trial, statement of truth was filed by plaintiff sides and written argument was filed by both sides. Oral argument was heard by both sides and the suit is taken up for judgment.

5. It is the case of the plaintiff that they have created a new online shop in the name of the defendant under the brand “NSR Decors with his consent” through a

Memorandum of Understanding dated 16.06.2023 and that the entire investment for establishing the online shop was made by the Plaintiff's Company, amounting to more than Rs.10,00,000/-.

6. It is also the case of the plaintiff that before completion of the two year period, the defendant breached the agreement by failing to remit sales proceeds and unlawfully taking control of the online shop, thereby causing irreparable financial loss and injury to the Plaintiff.

7. The plaintiff counsel urged that on 10.05.2025, the defendant has defaulted in payment of the 2nd instalment and continued on subsequent dates when demands were made, but there were no remittance by the defendant. It is the claim of the plaintiff company that after adjusting the amount already paid, the outstanding principal amount is Rs.3,50,000/- along with interest calculated at 12% per annum from 10.05.2025 to 10.07.2025 amounting to Rs.7,000/- totalling Rs.3,57,000/- together with interest at the rate of 11.80% per annum is payable by the defendant.

8. This court refers to the provision under **Sec.2(c)(i) of the Commercial Courts Act, 2015** hereunder:

(c) "commercial dispute" means a dispute arising out of-

(i) ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;

and that the first category referred, includes disputes of ordinary transactions of **merchants, bankers, financiers and traders** such as those relating to **mercantile documents** including enforcement and interpretation of such documents. The definition naturally will cover the dispute of all kinds of ordinary transactions of merchants, bankers, financiers and traders. The specified value thereof is more than Rs.3,00,000/-. So the facts pleaded before this court in the present plaint comes under the **commercial dispute**.

9. The next question which this court would like to answer is whether the dispute which is stated *supra* comes under the jurisdiction of commercial court. Thus, this court refers to **Sec.6 of Commercial Courts Act, 2015** which reads like this:

Jurisdiction of Commercial Court.

6. The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction.

Explanation.-For the purposes of this section, a commercial dispute shall be considered to arise out of the entire territory of the State over which a Commercial Court has been vested jurisdiction, if the suit or application relating to such commercial dispute has been instituted as per the provisions of sections 16 to 20 of the Code of Civil Procedure, 1908 (5 of 1908).

10. From the above provision it is very much clear that the commercial court shall have the jurisdiction to try all suits and applications relating to ***commercial dispute***. Now, the question is whether this court having the pecuniary jurisdiction to adjudicate the matter which is in dispute. Thus, this court drawn its attention on Sec.3 of Commercial Courts Act, 2015 which reads like this:

Section 3: Constitution of Commercial Courts.

3. (1) The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act:

2[Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judge level:

Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary.]

3[(1A) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, specify such

pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary.]

11. The above provision is very much clear that by virtue of the notification specified the pecuniary value of this court which shall not be less than Rs.3,00,000/-. Admittedly, the plaintiff in the plaint itself has stated that the defendant has to pay a due sum of **Rs.3,57,000/- (Round off)** with interest and the plaintiff has filed the instant suit against the defendant on **06.08.2025** i.e., after the amendment of Commercial Courts Act, 2018.

12. Prior to the amendment, the pecuniary jurisdiction of the commercial court is of Rs.1 Crore and above, but by virtue of the amendment of Commercial Courts Act, the pecuniary jurisdiction of the commercial court shall not be less than Rs.3,00,000/-. So this court is having the pecuniary jurisdiction to adjudicate the matter which is in dispute by virtue of the provisions which are stated *supra*.

13. The plaintiff counsel contended that the Plaintiff is a proprietorship concern engaged in e-commerce retail business, manufacturing of steel and wooden products, cotton bags, machine UV-related products, and export sales under a B2C model. The defendant initially approached the plaintiff seeking employment. Considering the nature of the Plaintiff's e-commerce business, and with the consent of the Defendant, the Plaintiff created a new online shop in the name of the Defendant under the brand

“NSR Decors with his consent” through a Memorandum of Understanding vide Ex.A1 dated 16.06.2023.

14. The learned plaintiff counsel urged that the entire investment for establishing the online shop was made by the Plaintiff’s Company, amounting to more than Rs.10,00,000/- included GST registration (GST No: 33IEHPS2193D1ZD), bank account creation in the defendant’s name, advertisement expenses within online platforms, manufacturing costs, shipping and export expenses, local transportation, office rent, payment of monthly operational expenses during loss periods, software subscriptions, customer support, commission deposits for shipping personnel in the USA, and other related business resources.

15. The plaintiff counsel contended that the alleged agreement vide Ex.A1 was valid for two years and a portion of terms and conditions stipulated in Ex.A1 is hereunder:

“நான் கம்பெனியில் பணிபுரிந்து வரும் காலகட்டத்திலோ அல்லது மேற்படி கம்பெனியை விட்டு விலகி சென்றாலோ மேற்படி கம்பெனியின் (Design மற்றும் Ideas) ஆகிய தொழில் ரகசியங்களை நான் வெளிநபருக்கோ அல்லது நண்பருக்கோ தெரியப்படுத்த மாட்டேன் என உறுதியளிக்கிறேன்.

மேற்படி கம்பெனியின் யோசனைகளை என் சம்பந்தப்பட்ட நபருக்கோ மற்ற வெளிநபருக்கோ என் மூலமாகவோ அல்லது வேறு யார் மூலமாகவோ இந்த வேலைகளின் பரிமாற்றங்களையோ பங்கு மாற்றங்களையோ தொழில் தொடங்கவோ மாட்டேன்.

மேற்படி கம்பெனியில் தொடர்ந்து இரண்டு வருடம் பணிபுரிந்து வரும் பட்சத்தில் இரண்டு வருடத்திற்கு பின்னர் மேற்படி கம்பெனியை விட்டு நான் தனியாக சென்று (Online Shop) நடத்த விரும்பினால் அதில் வரும் ஒரு வருடத்திற்கு உண்டான லாபத்தில் (PENTACLE NEWYORK COMPANY) கம்பெனிக்கு 50% செலுத்தி என் பெயரில் (Online Shop) சொந்தமாக நடத்த நான் சம்மதிக்கிறேன்.”

16. The plaintiff counsel further contended that before completion of the two-year period, the defendant has breached the agreement by failing to remit sales proceeds and unlawfully taking control of the online shop, thereby causing irreparable financial loss and injury to the Plaintiff. Attempts to amicably resolve the dispute failed, ended in vain which constrained the Plaintiff to issue a legal notice vide Ex.A5 dated 11.03.2025. Subsequently, discussions were held between the parties, leading to a second Memorandum of Understanding vide Ex.A2 dated 02.04.2025 (notarized).

17. The plaintiff counsel also urged that the as per the second agreement vide Ex.A2, the defendant acknowledged prior unauthorized use of the Plaintiff's designs and has agreed to pay compensation. It was agreed that Rs.1,00,000/- would be paid towards compensation for usage of designs, and Rs.3,00,000/- would be paid towards the investment made in creating the online shop, though the actual investment exceeded Rs.10,00,000/-. Thus, a total sum of Rs.4,00,000/- was agreed to be paid in eight monthly installments of Rs.50,000/- each, by the defendant. In lieu towards the same, a cheque for Rs.50,000/- (Bank of Baroda) vide Ex.A3 was also issued by the defendant as security, to be used in case of default.

18. It was urged by the plaintiff counsel that the defendant has paid Rs.50,000/- through PhonePe on 10.04.2025 but failed to make further payments from 10.05.2025 onwards, thereby committing default. It was also urged that the agreement permitted only usage of the designs and did not transfer ownership. There was no clause regarding transfer of source files, yet the defendant allegedly insisted upon obtaining them. The Plaintiff refused to provide the source files, stating that they involved separate expenditure and were not part of the agreement. The Plaintiff counsel argued that the defendant, in an attempt to evade liability, has sent a legal notice accusing the Plaintiff of breach, to which the Plaintiff replied vide Ex.A7 dated 23.05.2025 denying the allegations.

19. The plaintiff counsel urged that in compliance with the Commercial Courts Act, the Plaintiff initiated Pre-Institution Mediation on 02.06.2025 (PIM No. 505/2025). However, the defendant did not participate and the District Legal Services Authority issued a Non-Starter Report vide Ex.A10 dated 02.07.2025. Since the Defendant showed no intention to discharge the liability, the Plaintiff was constrained to file the present suit.

20. The plaintiff counsel also urged that the defendant defaulted in payment of the second installment on 10.05.2025 and continued on subsequent dates when demands were made but there was no remittance and that after adjusting the amount already paid, the outstanding principal claimed is Rs.3,50,000/-, along with interest calculated at 12% per annum from 10.05.2025 to 10.07.2025 amounting to Rs.7,000/-, totalling

Rs.3,57,000/-. Therefore the defendant is liable to pay Rs.3,57,000/- together with interest at 11.80% per annum from the date of suit till realization and to pay the costs of the suit.

21. Finally the plaintiff counsel has contended that the dispute fundamentally concerns breach of contractual obligations, recovery of agreed settlement amount, unauthorized control of an online business created with the Plaintiff's investment, and failure to honor installment payments under a notarized settlement agreement vide Ex.A1 and Ex.A2.

22. It was argued by the plaintiff counsel that a valid business agreement was duly entered into with the free will and consent of the Proprietor of NSR Decors, Mr. S. Sakthivel, the defendant herein. The said agreement was executed voluntarily and without any coercion, undue influence, misrepresentation, or unlawful inducement. The defendant, Mr. S. Sakthivel is the sole Proprietor of NSR Decors and constitutes the sole legal entity representing the said proprietary concern. As NSR Decors is a sole proprietorship, there exists no separate legal entity distinct from its Proprietor. Hence, any reference to "NSR Decors" or to "Mr. S. Sakthivel" shall be construed as one and the same, and both expressions are used interchangeably to denote the same legal person.

23. The plaintiff counsel further urged that the Agreement vide Ex.A1 specifically mentions the name of the defendant, at the time of execution of the said Agreement, the GST Registration Number and the Company Name under GST were not

mentioned, as the GST registration had not yet been obtained. Subsequent to the execution of the Agreement, the GST registration was applied and obtained. The said GST registration process was carried out by the Auditor of the Plaintiff on behalf of the Defendant.

24. The plaintiff counsel argued that creation of GST registration in the name of an employee does not constitute any unlawful act under the applicable provisions of the GST laws. The GST registration, bank account, and cheque facilities in the name of the Defendant were created / availed solely with the knowledge and express consent of the Defendant. The Defendant retained exclusive possession and control over his personal banking instruments and credentials, including the ATM card and cheque book pertaining to the said account and the same has been stated in **para 4** of the Legal Notice issued by the Plaintiff vide Ex.A6. The defendant, in his subsequent reply notices, has not specifically denied the said averments, and therefore the same stand admitted.

25. The plaintiff counsel further argued that the as per Agreement vide Ex.A1, the Plaintiff did not undertake or promise to carry out the filing of GST returns. As per the terms and understanding between the parties, the filing of GST returns was solely the responsibility and obligation of the Defendant. However, subsequently the defendant approached the Plaintiff seeking assistance in filing the GST returns. Upon such request, the Plaintiff, as a matter of support and accommodation, agreed to assist the defendant in the filing of the GST returns. The Plaintiff Company is an

export-oriented concern and, therefore, its supplies qualify as “zero-rated supplies” under Section 16 of the CGST Act. In view of the said statutory provision, no GST payment liability arises on such export transactions.

26. The learned counsel for the plaintiff also argued that in the case of export activities, the procedural compliance primarily involves submission of the relevant documents, namely the Import Export Code (IEC), AD Code, Digital Signature Certificate, and FIRA documents, on a monthly basis before the competent authorities. The said filings could not be completed solely due to the failure of the defendant to furnish the necessary documents as and when called upon by the Plaintiff Company. The non-submission of the required documents was due to the negligence and omission on the part of the Defendant.

27. The plaintiff counsel further contended that the defendant, in response to the questions raised, has himself admitted that he continues to operate the same business which was unlawfully taken over from the Plaintiff. The said business was established solely on the investment, original ideas, resources, and efforts of the Plaintiff. The Defendant did not invest a single penny towards the creation or development of the said online shop. The continued operation of the said business by the Defendant clearly implies that there is no illegality in the nature of the business itself. Rather, the illegality lies in the wrongful and unauthorized appropriation of the Plaintiff’s business, ideas, and resources by the Defendant. After illegally usurping the Plaintiff’s online shop, the Defendant has earned an amount exceeding

₹50,00,000 (Rupees Fifty Lakhs approximately) from the same. The Defendant has also expanded similar online platforms by adopting and replicating the business model, ideas, and concept originally developed by the Plaintiff Company. The statements made by the defendant appear to be deliberate attempts to create confusion and mislead this Hon'ble Court, and are devoid of merit.

28. It was also argued by the plaintiff counsel that though the defendant has made allegations describing the Plaintiff Company as a fraudulent company and has alleged that the Plaintiff Company is involved in various issues, the conduct of the defendant clearly contradicts such statements. The defendant, of his own volition, entered into and signed a Second Agreement vide Ex.A2, subsequent to the earlier transaction. The execution of the Ex.A2 clearly demonstrates the true intention and bona fides of the defendant. There been any truth in the allegations now raised by the defendant, he would not have voluntarily approached the Plaintiff and executed the Second Agreement. The very act of entering into the Second Agreement establishes that the Defendant had confidence in the Plaintiff Company and was willing to continue the commercial relationship.

29. It is finally argued that the Second Agreement clearly records that the Design Usage Rights were sold for a consideration of Rs. 1,00,000/-. It was agreed that the earlier investment component of Rs. 10,00,000/- was reduced to Rs. 3,00,000/- in accordance with the request and flexibility sought by the Defendant. Although GST liability does not pertain to the Plaintiff Company, the Plaintiff, in view of the

specific condition insisted upon by the Defendant, agreed to extend support and address any issues that might arise during the Defendant's period already mentioned in Second agreement of the online shop. There is no clause or recital in the Second Agreement requiring the Plaintiff to hand over the Designs themselves or to provide the Source Files to the Defendant. In the absence of any such contractual stipulation, the Defendant cannot claim the same as a matter of right.

30. It is also contended that the defendant, with a mala fide intention to delay and evade payment of the agreed consideration, began raising untenable demands and complaints with respect to matters not contemplated or provided for under the Agreement. At the initial stage, the defendant requested the designs, and in good faith and without prejudice, the Plaintiff Company acceded to the said request and furnished the Designs in a pen drive. Thereafter, the defendant began demanding the Source Files, which was never stipulated or agreed to be provided under the terms of the Agreement. The said demand was made only with the intention of avoiding and withholding the payment of the amount due and payable to the Plaintiff. In view of the Defendant's failure and refusal to discharge his contractual liability, the Plaintiff was constrained to initiate proceedings for recovery of money before the competent Commercial Court.

31. Having the defendant failed to appear for the Pre-Institution Mediation (PIM) proceedings, and consequently, the Plaintiff received a Non-Starter Report, recording that the Defendant neither appeared nor responded to the notice issued to him.

Although the defendant had initially sought mediation, he did not make any genuine effort to participate in or settle the dispute during the mediation proceedings. Without prejudice to its rights and contentions, the Plaintiff Company agreed to provide the Source Files. During Mediation Session No. 3, the Plaintiff produced and offered the said Source Files to the Defendant; however, the Defendant refused to receive the same. The aforesaid conduct of the defendant would go to show the intention of the defendant to delay the proceedings, protract the dispute, and waste the valuable time of this Hon'ble Court, rather than to arrive at a bona fide resolution of the matter.

32. The learned plaintiff counsel has argued that the defendant, Mr. S. Sakthivel, has willfully and deliberately breached the terms and conditions of both the Agreements vide Ex. A1 and Ex.A2. The breaches committed by the Defendant are intentional and without any lawful justification. By reason of such deliberate violations of the contractual obligations undertaken by him, the defendant has rendered himself liable for all the claims, demands, and reliefs sought by the Plaintiff in the present suit. Accordingly, the defendant is legally bound to satisfy the entire claim of the plaintiff and is liable to pay **Rs.3,57,000/-** along with interest.

33. Per Contra, the defendant counsel urged that the present suit for recovery of money filed by the plaintiff demanding Rs.3,57,000/- along with interest at the rate of 11.80% per annum from the date of suit till realization is false vexatious and not maintainable in law and facts.

34. The learned counsel for the defendant contended that the defendant admittedly is the employee of the plaintiff and that his employer, the plaintiff herein has opened GST in the name of the defendant and had done transactions in the name of the employee for which the defendant is no way connected.

35. The defendant counsel urged that there is no cause of action for the suit and the suit is liable to be dismissed on the grounds that the Defendant admittedly being he employee of the plaintiff, the damages caused to the plaintiff (employer) is not proved by the plaintiff by way of documents, the plaintiff is relying on the notarised agreement vide Ex.A2 dated 02.04.2025 which is not at all a commercial transaction, the suit is filed by the Employer demanding damages from the employee/ defendant.

36. The defendant counsel contended that it is admitted by the plaintiff that the designs were not handed over by the plaintiff to the defendant, hence the plaintiff have no right to claim the amount as per the agreement vide Ex.A2.

A portion of PW1 cross examination is culled out below:

“மேற்படி விவரம் வா.சா.ஆ.2 ஒப்பந்தத்தில் சொல்லப்படவில்லை என்றால் சரிதான். Designs பிரதிவாதிக்கு கொடுத்ததற்கு ஏதேனும் ஆதாரம் உள்ளதா (E mail, Notice) என்றால் Designs என் வசம் தான் Pendrive ல் உள்ளது, பிரதிவாதி அதை வாங்க மறுத்துவிட்டார். அதேபோல் ஒப்பந்தத்தில் அல்லாத Source file பிரதிவாதி கேட்டதால் தான் பிரச்சனை ஆனது, அதையும் வாங்கவும் மறுத்துவிட்டார். பிரதிவாதிக்கு நீங்கள் Designs ஐ நீங்கள் கொடுக்க முற்பட்டு அதை பிரதிவாதி வாங்க

மறுத்துவிட்டார் என்றும், அதேபோல் வா.சா.ஆ. 2 ல் அல்லாத பிரதிவாதிக்கு நீங்கள் Source file ஐ நீங்கள் கொடுக்க முற்பட்டு அதை பிரதிவாதி வாங்க மறுத்துவிட்டார் என்று சொல்வது பொய் என்றால் சரியல்ல, சாட்சி தற்சமயம் Designs ஐ பிரதிவாதிக்கு வா.சா.ஆ.2 ஏற்படுத்தப்பட்ட சமயத்திலே கொடுத்துவிட்டதாகவும், Source file ஐ முதல் Mediation ல் கொடுப்பதாக ஒப்புக்கொண்டும், 2 வது Mediation ல் அதை வாங்க மறுத்துவிட்டார். பிரதிவாதி தனக்கு Designs கொடுக்க சொல்லி அளித்த pendrive தற்சமயம் உங்களிடம் உள்ளது என்றால் சரிதான், Designs உடன் Source file ஐயும் கேட்டு அவர் தான் pendrive தந்தார். பிரதிவாதி Source file ஐ கேட்கவில்லை, தற்சமயம் வரை நீங்கள் Designs ஐ பிரதிவாதிக்கு கொடுக்கவில்லை அதனால் பிரதிவாதி உங்களுக்கு 4 இலட்சம் தரவேண்டியதில்லை என்று சொன்னால் சரியல்ல.”

37. It is the case of the plaintiff that he is in e-commerce retail business, manufacturing of steel and wooden products, cotton bags, machine UV-related products, and export sales under a B2C model and that the defendant is his employee and with the consent of the defendant, the Plaintiff has created a new online shop in the name of the Defendant firm through a Memorandum of Understanding vide Ex.A1 dated 16.06.2023.

38. It is also the case of the plaintiff he has made investment to the tune of more than Rs.10,00,000/- on the defendant firm which included GST registration (GST No: 33IEHPS2193D1ZD), bank account creation in the defendant's name, advertisement

expenses within online platforms, manufacturing costs, shipping and export expenses, local transportation, office rent, payment of monthly operational expenses during loss periods, software subscriptions, customer support, commission deposits for shipping personnel in the USA, and other related business resources.

39. The plaintiff has fastened the liability on the defendant on the strength of Memorandum of Understanding vide Ex.A1 dated 16.06.2023 and a subsequent Memorandum of Understanding vide Ex.A2 dated 02.04.2025. It is the stand of the plaintiff that the defendant has breached the terms of the MOU vide Ex.A1 and having failed to adhere to the terms and condition stipulated in Ex.A1, has executed another Memorandum of Understanding vide Ex.A2 dated 02.04.2025. It is also the case of the plaintiff that the defendant has entered into Ex.A1 and Ex.A2 out of free will and consent and without any undue influence and coercion. Having failed to comply to the terms as agreed, the defendant is liable to pay the plaintiff a sum of Rs.3,57,000/- along with interest.

40. It is from the record that the plaintiff has created an online shop in the name of the defendant who is admittedly an employee of the plaintiff. It is also an admitted fact and evident from the terms of Ex.A1, that the bank account creation in the name of the defendant firm, maintenance of cheque book, operation of the defendant's bank account vest with that of the plaintiff firm.

This court refers to the portion of terms and conditions stipulated in the MoU dated 16.06.2023 vide Ex.A1:

“நான் தங்களுக்கு பாத்தியப்பட்ட PENTACLE NEWYORK COMPANY -ல் நான் பணிபுரிந்து வருகிறேன்.

மேற்படி PENTACLE NEWYORK COMPANY க்கோ எனது பெயரில் (online shop) ஆரம்பித்து வரும் கம்பெனிக்கோ நான் எந்தவிதமான பணமாகவோ பொருளாகவோ நான் தங்களுக்கு முதலீடு செய்யவில்லை.

நான் கம்பெனியில் பணிபுரிந்து வரும் காலகட்டத்திலோ அல்லது மேற்படி கம்பெனியை விட்டு விலகி சென்றாலோ மேற்படி கம்பெனியின் (Design மற்றும் Ideas) ஆகிய தொழில் ரகசியங்களை நான் வெளிநபருக்கோ அல்லது நண்பருக்கோ தெரியப்படுத்த மாட்டேன் என உறுதியளிக்கிறேன்.

மேற்படி கம்பெனியின் யோசனைகளை என் சம்பந்தப்பட்ட நபருக்கோ மற்ற வெளிநபருக்கோ என் மூலமாகவோ அல்லது வேறு யார் மூலமாகவோ இந்த வேலைகளின் பரிமாற்றங்களையோ பங்கு மாற்றங்களையோ தொழில் தொடங்கவோ மாட்டேன்.

என் பெயரில் (PENTACLE NEWYORK COMPANY) கம்பெனி மூலமாக ஆரம்பிக்கும் வங்கி கணக்கிற்கு உண்டான (Passbook, ATM Card, Cheque) ஆகியவை அனைத்தும் தங்களிடம் ஒப்படைத்து விடுவேன் என்றும் மேற்படி வங்கி கணக்கில் தங்களுக்கு தெரியாமல் ஏதேனும் பணப் பரிவர்த்தனை செய்தாலோ அல்லது எடுத்தாலோ, தாங்கள் மற்றும் கம்பெனி எடுக்கும் நடவடிக்கைக்கு நான் கட்டுப்படுகிறேன்.

மேற்படி கம்பெனியில் தொடர்ந்து இரண்டு வருடம் பணிபுரிந்து வரும் பட்சத்தில் இரண்டு வருடத்திற்கு பின்னர் மேற்படி கம்பெனியை விட்டு நான் தனியாக சென்று (Online Shop) நடத்த விரும்பினால் அதில் வரும் ஒரு வருடத்திற்கு உண்டான லாபத்தில் (PENTACLE NEWYORK COMPANY) கம்பெனிக்கு 50% செலுத்தி என் பெயரில் (Online Shop) சொந்தமாக நடத்த நான் சம்மதிக்கிறேன்.

அப்படி செலுத்த தவறினாலோ அல்லது மீறினாலோ எனது பெயரில் தாங்கள் ஆரம்பிக்கும் (online shop) யை (வங்கி கணக்கையோ) முழுமையாக எடுத்துக் கொள்ள அதிகாரம் மற்றும் சட்டப்படியான நடவடிக்கை எடுக்க சம்மதித்து அதற்கு முழு பொறுப்பும் ஏற்றுக் கொள்கிறேன்.

மேற்படி கம்பெனியில் (PENTACLE NEWYORK COMPANY) மூன்று வருடம் தொடர்ந்து இருக்கும் பட்சத்தில் என் பெயரில் (online shop) கடையில் வரும் வருமானத்தில் சம்பளம் மற்றும் கடையில் வரும் லாபத்தில் 30% சேர்த்து தர தாங்கள் சம்மதித்து நான் அதை நான் பெற்றுக் கொள்வேன் என உறுதி அளிக்கிறேன்.

எனது பெயரில் (online shop) ஆரம்பிக்கும் பொழுது (Technically Suspend) தொழில்நுட்ப ரீதியாக கடை முடக்கம் போன்ற விளைவுகளுக்கு மேற்படி (PENTACLE NEWYORK COMPANY) எந்த வகையிலும் பொறுப்பேற்காது எனவும் மீண்டும் புதியதாக கடை தொடர இருந்தால் (PENTACLE NEWYORK COMPANY) ன் விருப்பம் ஆகும்.”

41. This court finds that the very clause of the MoU dated 16.06.2023 vide Ex.A1 mentioned above stipulating a condition requiring a party to handover their cheque book, ATM card, and control of bank operations to the other party is considered onerous, unconscionable, and, in most scenarios, invalid and legally unenforceable. This court finds that such a clause violates the core principle of banking confidentiality and creates a high risk of fraud, making it opposed to public policy.

42. It is also from the record and evidence that the alleged designs were not handed over by the plaintiff to the defendant and that the alleged pen drive (containing the designs) along with source file is still with the plaintiff.

43. Normal and ordinary banking practises regulation require account opening and operation to be handled directly by the account holder to prevent fraud and money laundering. Handing over physical instruments (cards/books) to a third party violates "[Know Your Customer (KYC)]" norms. A bank account is confidential and that requiring a third party to manage bank operations is a violation of personal privacy and banking confidentiality. Any agreement with an unlawful object or one that is against public policy is void under Section 23 of the Indian Contract Act, 1872.

This court refers to **Section 23 of The Indian Contract Act, 1872**. It run thus:

“23. What considerations and objects are lawful, and what not.—The consideration or object of an agreement is lawful, unless—

it is forbidden by law; or

is of such a nature that if permitted, it would defeat the provisions of any law; or

is fraudulent ; or

involves or implies injury to the person or property of another; or

the Court regards it as immoral, or opposed to public policy.

In each of these cases, the consideration or object of an agreement is said to be unlawful. Every agreement of which the object or consideration is unlawful is void.”

44. It is also from the terms of Ex.A2 that issues pertaining to GST, IT and Bank would be addressed by the plaintiff for the period from 28.11.2022 to 10.10.2024 and that the defendant has to hand over the necessary documents to the plaintiff for filing IT returns for the period 2024 to 2025 and that the defendant has to give the benefit of TCS and TDS to the plaintiff.

45. In this regard, this court refers to the decision of the **Hon’ble Supreme Court** in **Central Inland Water Transport Corporation Ltd. v. Brojo Nath Ganguly** wherein the employers provide unreasonable clauses in employment contracts and impose very unfair conditions on the employees and it was emphasized that a clause providing for termination of the services of a permanent employee by serving a three months notice on him is arbitrary, unreasonable, opposed to public policy and thus unconscionable. In another case, it was held a clause unconscionable as it conferred unbridled and arbitrary power on the authority to terminate the services of a permanent employee without recording any reasons for such termination.

46. In view of the decision in **Central Inland Water Transport Corporation Ltd. Case** stated *supra*, this court finds that the alleged Memorandum of Understanding in Ex.A1 and Ex.A2 are unconscionable contracts and are drafted in such a manner that they favour one party, the plaintiff herein and has imposed, harsh, unfair, unjust and unreasonable conditions on the other party, the defendant herein. This court finds that the very Ex.A1 and Ex.A2 are not legally enforceable.

47. In the light of the narrative, decisions deliberated, discussion and dispositive reasoning and the thus far, the inevitable sequitur that follows is that the plaintiff cannot place strength on the terms of Ex.A1 and Ex.A2 and fasten the liability on the defendant.

48. Having admitted the relationship between the parties, defendant being the employee of the plaintiff firm, having created, maintained and promoted an online shop in the name of the defendant, plaintiff having applied for GST, maintained bank accounts, operated cheque books of the defendant firm, having unconscionable terms and conditions vide Ex.A1 and Ex.A2, having not handed over the alleged designs to the defendant, this court finds that the plaintiff cannot derive strength on Ex.A1 and Ex.A2 and cannot bolster the liability on the defendant as the same is legally unenforceable.

In the result, the suit is dismissed with cost.

Typed directly into the Computer by Typist, corrected, printed out and pronounced in the open court on this, 30th Day of March, 2026

Judge
Commercial Court
(Senior Civil Judge Cadre)
Coimbatore

I. List of Plaintiff side Witness:

1. PW1 – DEEPA R (Proprietor, Plaintiff Company)

II. List of Plaintiff side Exhibits:

- | | | | | |
|---|-------|------------|--|----------|
| 1 | Ex.A1 | 16.06.2023 | Memorandum of Understanding Agreement | Original |
| 2 | Ex.A2 | 02.04.2025 | Memorandum of Understanding Agreement Notarized and original copy with 2 nd defendant | Copy |
| 3 | Ex.A3 | -- | Plaintiff received cheque for incase of default of payment on 02.04.2025 for Rs.50,000/- | Original |
| 4 | Ex.A4 | -- | Bank Statement for three months (08.04.2025 to 11.07.2025) | Copy |

- | | | | | |
|----|--------|------------|--|-------------|
| 5 | Ex.A5 | 11.03.2025 | Legal Notice sent by plaintiff to defendant | Office Copy |
| 6 | Ex.A6 | 16.05.2025 | Legal Notice by 2 nd defendant | Original |
| 7 | Ex.A7 | 23.05.2025 | Reply Notice sent by Plaintiff | Office Copy |
| 8 | Ex.A8 | 12.03.2025 | Sender's Receipt and acknowledgement card for Legal Notice and Reply | Original |
| | | 23.05.2025 | Notice | |
| 9 | Ex.A9 | -- | Registration Certificate of Plaintiff Company | Copy |
| 10 | Ex.A10 | 02.07.2025 | Non – Starter Report | Original |

III. List of Defendant side Witnesses:

- Nil -

IV. List of Defendant side Exhibits:

- Nil -

Judge
Commercial Court
(Senior Civil Judge Cadre)
Coimbatore

Fair / Draft Judgment
C.O.S. 282 of 2025

Date: 30.03.2026
SCJ, CBE