

ITEM NO.50

COURT NO.6

SECTION IV-B

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SPetition for Special Leave to Appeal (C) No.238/2026

[Arising out of impugned final judgment and order dated 23-12-2025 in FAOCARB No. 54/2025 passed by the High Court of Punjab & Haryana at Chandigarh]

OFB TECH PVT. LTD.

Petitioner(s)

VERSUS

S.B. DEVELOPERS

Respondent(s)

[TO BE TAKEN UP AT THE TOP OF THE BOARD]

(IA No. 2353/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 23-01-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA  
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s) :

Mr. Navin Pahwa, Sr. Adv.  
Mr. Sameer Abhyankar, AOR  
Mr. Rahul Kumar, Adv.  
Mr. Aakash Thakur, Adv.

For Respondent(s) :

Mr. Siddharth Batra, AOR  
Ms. Shivani Chawla, Adv.  
Mr. Chinmay Dubey, Adv.  
Ms. Preetika Shukla, Adv.  
Mr. Ashutosh Chugh, Adv.UPON hearing the counsel the Court made the following  
O R D E R

1. Exemption Application is allowed.
2. This petition arises from the Order passed by the High Court of Punjab and Haryana dated 23-12-2025 in an application preferred by the petitioner seeking to challenge the order passed by the Commercial Court, Gurugram, Haryana under Section 9 of the Arbitration and Conciliation Act, 1996 (for short, "the Act, 96").

3. It appears that the Commercial Court in an application filed under Section 9, referred to above, has directed the petitioner to deposit Rs.50,00,000/- as a condition precedent for the purpose of protection the ongoing services. In other words, it appears to be the case of the other side that the petitioner has defaulted in making the payment of Rs.50,00,000/- which he is otherwise obliged to under the agreement for the purpose of providing of services and since this amount is due and payable, the services would be disconnected.

4. The impugned order passed by the High Court reads thus:-

"1. In the petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 (for short 'the Act') by the appellant herein, the Commercial Court, Gurugram, has passed the following orders:-

"12. In these circumstances, the relief as prayed for by learned counsel for the petitioner and as sought in the present petition cannot be granted. However, since some of the demands raised by the respondent might be barred by limitation, considering the facts and circumstances of the case, the present petition is partly allowed. Respondent is restrained from disconnecting, suspending, withdrawing curtailing or otherwise interfering in the services being provided by it to the petitioner in terms of the Maintenance and Service Agreement dated 30.03.2023 if the petitioner deposits an amount of 50 lakhs out ₹ of the total demanded amount within a period of one month and thereafter continues to pay all other dues as per invoices raised by the respondent regularly in terms of the agreement. The interim measures granted by this order shall remain operative subject to invoking of arbitration by the petitioner within one month from the date of order, failing which the interim measures granted above will stand vacated. After appointment of learned arbitrator/arbitral tribunal and initiation of arbitration proceedings, any of the parties to the arbitration may get this order modified by moving appropriate application before the learned arbitrator/arbitral tribunal and till then this order will remain operative subject to invocation of arbitration by the petitioner within one month from today and on depositing the specified amount mentioned above within prescribed time."

2. Learned counsel for the appellant states that the order passed by the Court below is perverse and erroneous, inasmuch as ongoing services could not have been disconnected by the respondent, and that the direction to deposit Rs.50,00,000/- was not warranted as a condition precedent for protecting the ongoing services to be extended to the appellant. It is not in dispute that the appellant is a solvent company. So far as the rights and contentions of the

*parties are concerned, they need to be determined by the Arbitrator in appropriate proceedings. The order passed by the Commercial Court, is only an interim order, which would remain subject to the final orders to be passed in arbitration proceedings. The exercise of discretion by the Commercial Court is with an intent to balance the equities, and neither any Jurisdictional error is pointed out, nor any apparent perversity is shown.*

3. *In such circumstances, we refuse to exercise our jurisdiction under Section 37 of the Act.*

4. Appeal Stands dismissed accordingly."

5. We are of the view that we should appoint an Arbitrator and request the Arbitrator to resolve the dispute between the parties.

6. We appoint Mr. Shubhranshu Padhi, the learned Advocate, who is present in our Court Room, to act as an Arbitrator. The fees of the learned Arbitrator and other modalities shall be worked out in consultation with the learned Arbitrator. We are not interfering with the impugned order passed by the High Court.

6. However, we direct the respondent before us to file an Undertaking before this Court that in the event, if it's claim fails, then they shall refund the amount of Rs.50,00,000/- along with interest that may be ordered by the Arbitrator, to the petitioner.

7. Such Undertaking shall be filed within a period of one week from today.

8. The Undertaking shall be filed by the Managing Director of the Respondent - Company.

9. One copy of such Undertaking shall be furnished to the learned counsel appearing for the petitioner.

10. With the aforesaid, this petition stands disposed of.

11. Pending applications, if any, also stand disposed of.

(VISHAL ANAND)  
ASTT. REGISTRAR-cum-PS

(POOJA SHARMA)  
COURT MASTER (NSH)