



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMMERCIAL ARBITRATION PETITION (L) NO. 11646 OF 2025
WITH
INTERIM APPLICATION (L) NO. 12640 OF 2025
IN
COMMERCIAL ARBITRATION PETITION (L) NO. 11646 OF 2025

Zanmai Labs Private Limited ...Petitioner
Versus
Bitcipher Labs LLP ...Respondent

WITH
COMMERCIAL ARBITRATION PETITION (L) NO. 11975 OF 2025
WITH
INTERIM APPLICATION (L) NO. 12539 OF 2025
IN
COMMERCIAL ARBITRATION PETITION (L) NO. 11975 OF 2025

Zanmai Labs Private Limited ...Petitioner
Versus
Nextgendev Solutions Private Limited ...Respondent

WITH
CONTEMPT PETITION IN COMM. DIVISION MATTERS NO.18 OF 2025
Bitcipher Labs LLP ...Petitioner
Versus
Zanmai Labs Private Limited ...Respondent

Digitally signed by ASHWINI JANARDAN VALLAKATI Date: 2025.10.09 15:04:38 +0530

2. It would be necessary to have a brief overview of the facts involved. The Petitioner, Zanmai Labs Private Limited (“**Zanmai**”) provides services connected with a trading platform called WazirX (“**WazirX Platform**”). Zanmai is a subsidiary of a company incorporated in Singapore, called Zettai Pte Ltd., Singapore (“**Zettai**”). Zanmai is founded by one Mr. Nishchal Shetty who is also a deponent of affidavits filed in Courts in Singapore on behalf of Zettai in a scheme of arrangement sought to be propounded by Zettai, which is stated to have implications for the matter at hand.

3. The two Respondents are Bitcipher Labs LLP (“**Bitcipher**”) in Commercial Arbitration Petition (L) No.11646 of 2025 and Nextgendev Solutions Pvt. Ltd. (“**Nextgendev**”) in Commercial Arbitration Petition (L) No.11975 of 2025. Bitcipher is a virtual digital asset service provider and enables access to trading on the WazirX platform for its respective clients through the contractual framework between Bitcipher and Zanmai. Bitcipher operates under the trade name, called CoinSwitch and is registered as a broker on the WazirX platform.

4. All through the proceedings, including in the arbitral proceedings held so far, it is common ground that reference to the particulars relating Bitcipher would be adequate, since it would be

dispositive of the issues arising in the Petition relating to Nextgendev as well.

5. Bitcipher moved a sum of Rs.5 crores into a bank account held by Zanmai with the State Bank of India for purposes of its trading exposure on the WazirX Platform. However, it shortly learnt that balances to its credit on the WazirX Platform were shown as “pending” on the WazirX dashboard. Shortly thereafter, Zanmai imposed a bunch of restrictions on access of users to their assets on the WazirX Platform including restrictions on withdrawals of balances, citing a significant cyber-attack, which had taken place on July 18, 2024 on the multi signature wallets operated for transacting and holding of virtual digital assets. Assets of brokers and their clients, denominated in any currency or cyber tokens faced withdrawal restrictions. These restrictions lie at the heart of the dispute between the parties.

6. The crypto asset that was compromised by the cyber-attack is said to be the ‘ERC-20’ token, one of the supported crypto assets on which trading and holding was supported on the WazirX Platform. ERC-20 constituted about 40.5% of Bitcipher’s assets holding on the WazirX Platform at the relevant time. Zanmai invoked the *force majeure* clause in the agreement between the parties, which records security

breaches and cyber-attacks as one of the illustrative types of *force majeure* conditions that fall outside the scope and control of any party. The theft of ERC-20 assets is said to have had an impact of approximately USD ~235 million.

7. Zanmai has been propounding a theory of “socialising” the loss arising out of such *force majeure* event across its multiple users – effectively a proposal to distribute the impact of the theft across all users of the WazirX Platform. The basis of such “socialisation” is a scheme of arrangement propounded by Zettai in the Singapore Courts. By this measure, each and every user of the WazirX Platform would bear a share of the burden of the theft that arose due to the cyber-attack.

8. The security features of the digital holdings of virtual digital assets on the WazirX Platform is overseen by an entity called, Answer Eleven Pte. Ltd. ("*Liminal*"). The four-signature wallet system that was compromised, entailed three signatures under the control of Zanmai and one under the control of Liminal, whose role came into being.

9. At the relevant time, Bitcipher is said to have held assets on the WazirX Platform of a total value of approximately Rs.59.34 crores excluding the additional Rs.5 crores deposited on July 15, 2024 – a

valuation based on the value attributed on the WazirX Platform to the virtual digital assets as of August 27, 2024.

10. Initially, after hearing the parties, the Learned Arbitral Tribunal directed Zanmai by an order dated December 16, 2024, to provide security by deposit of Rs. ~45.38 crores and an additional Rs.5 crores in favour of Bitcipher and a similar deposit of Rs. ~11.92 crores in the case of Nextgendev. The newly deposited Rs. 5 crores amount is said to have been refunded in the course of the dispute and is therefore not being taken into account for the purposes of these proceedings.

11. After mounting a challenge to the direction, Zanmai sought to bring on record further new developments, which were said to be material for assessment of interlocutory arrangements. By consent of the parties, these new developments were taken back to the Learned Arbitral Tribunal for its reassessment of the interlocutory measures to see if any modifications or adjustments were warranted. The second order of the Learned Arbitral Tribunal dated March 12, 2025, as corrected on March 19, 2025, dismissed the applications for modification on the basis of subsequent developments.

12. The contract forming documentation which would govern the relationship between the parties and houses the arbitration agreement

is essentially found in two instruments namely:- (i) a User Agreement which is to be accepted by users of the WazirX Platform, by clicking on the button for expressing consent (this standard form contract was last updated on August 1, 2023); and (ii) a Broker Agreement, specifically executed between Zanmai and Bitcipher on August 18, 2022 with effect from July 1, 2022. Both these instruments have an arbitration clause and it is common ground that the arbitral tribunal had jurisdiction to adjudicate disputes and differences between the parties.

Contentions of Parties:

13. The core ground of challenge mounted by Zanmai is that Zanmai is not at all responsible for the component of the services provided on the WazirX Platform that covers cyber-attack. It is contended that such component squarely fell in the domain of another entity called Binance, which is party to the tripartite User Agreement (involving Binance, Zanmai and the users). The Broker Agreement is a bipartite agreement between Zanmai and Bitcipher and is a document actually negotiated and executed by the two parties specific in terms and conditions of the services on the WazirX Platform.

14. The contention of Zanmai is that Binance had “acquired” the WazirX Platform in 2019 which led to the tripartite contractual

arrangement under the User Agreement. In August 2022, Binance is said to have started publicly distancing itself from WazirX Platform. Therefore, control over WazirX Platform which had been handed over to Binance in 2019 was diluted, and Binance publicly announced a decision (or rather an ultimatum) to cease its connection with the WazirX Platform by February 3, 2023. Therefore, it is stated by Zanmai that under protest, Zettai that took over the operations that were until then being handled by Binance. In respect of digital asset management service, in view of the absence of Binance, it is stated by Zanmai that an arrangement was entered into with Liminal and it was Liminal that would provide the management services including security features, that had until then been provided by Binance.

15. The upshot of this presentation of the framework by Zanmai is that the Learned Arbitral Tribunal has lost sight of the fundamental difference between tripartite User Agreement and the bipartite Broker Agreement, to treat Zanmai as being synonymous with WazirX Platform, which has led to wrongly laying the accountability and responsibility at Zanmai's doorstep. The liability arising out of the cyber-attack on the WazirX Platform which squarely fell in the component of work not covered by the responsibilities devolving on Zanmai, the Impugned Order is said to be perverse.

16. This is countered by Bitcipher, contending that the Broker Agreement was a subsequent document and makes specific references to various facets of the services provided by Zanmai and in this agreement Zanmai is synonymous with WazirX Platform. The *force majeure* clause contained in the User Agreement (bringing within its ambit the inclusion of cyber-attacks) was diluted by Zanmai undertaking to ensure uninterrupted performance, ***notwithstanding*** the *force majeure* provision contained in the User Agreement. According to Bitcipher, since Zanmai had agreed to maintain cyber security measures under the Broker Agreement including measures against risk or loss of theft of the virtual digital assets and Zanmai agreed to being regarded as synonymous with WazirX, it would not be possible to let Zanmai wash its hands off the consequences of the cyber-attack.

17. Bitcipher would contend that it was Zanmai that undertook to make notifications and disclosures of such risks and mitigation efforts to avoid the impact of such security risk. According to Bitcipher even if the User Agreement were a tripartite agreement, if Binance had disassociated itself from WazirX Platform, the obligations could not have been handed over to someone else without the consent of the users. That apart, Zanmai being a subsidiary of Zettai, coupled with the synonymous treatment of Zanmai and WazirX in the Broker Agreement,

the buck stops at Zanmai's doorstep and it is Zanmai that would need to preserve and protect the subject matter of the arbitration agreement.

Analysis and Findings:

18. I have heard at length, Mr. Janak Dwarkadas, Learned Senior Advocate and Mr. Sharan Jagtiani, Learned Senior Advocate on behalf of Zanmai, Mr. Venkatesh Dhond, Learned Senior Advocate on behalf of Bitcipher and Mr. Shyam Kapadia, Learned Advocate on behalf of Nextgendev. With the aid and assistance of their verbal submissions and written notes on submissions, I have perused the record.

19. Quite similar to the approach of the Learned Arbitral Tribunal, it is made clear at the threshold, that all observations and findings in this judgement are in *prima facie* in nature, and aimed at dealing with the challenge mounted under Section 37 of the Act. The precise and firm findings in the matter would be arrived at after adjudication of all contentions of the parties in the arbitral proceedings.

20. Against the backdrop of the core contentions of the parties, it would be appropriate to examine the Impugned Order and juxtapose the contents with the material on record, to ascertain whether a case has

been made out for an intervention by this Court in exercise of jurisdiction under Section 37 of the Act.

21. The Learned Arbitral Tribunal has examined in great detail, the contractual framework set up between the parties including the User Agreement and the Broker Agreement. The Learned Arbitral Tribunal indeed examined the recitals and the prime operating provisions of the User Agreement to note that depending on the service in question i.e. services under Clause 5 (provided by Binance) or services under Clause 6 (provided by Zanmai), the terms “WazirX Platform” for purposes of the User Agreement would interchangeably be Binance or Zanmai. The Learned Arbitral Tribunal also noticed that the security breaches and cyber-attacks indeed within the ambit of *force majeure* event under the User Agreement and in the event of such a cyber-attack, the obligations to provide services under the User Agreement would be excused.

22. The Learned Arbitral Tribunal also analysed the Broker Agreement (executed on August 18, 2022 with a marginally retrospective effect from July 1, 2022) to note that the recitals indicate that it was Zanmai that was making available to Bitcipher’s clients, access to the WazirX Platform, with the contractual construct treating “WazirX” as synonymous with Zanmai. Brokers such as Bitcipher could

trade on WazirX Platform through this relationship. The Learned Arbitral Tribunal examined the various provisions of the Broker Agreement including Clause 11.1, which provided that notwithstanding the *force majeure* conditions alluded to in the User Agreement, WazirX (and thereby Zanmai) has represented that it would take best efforts to ensure uninterrupted performance of the Broker Agreement.

23. The Learned Arbitral Tribunal has indeed taken into account the division of labour and the devolution of responsibilities that existed between Binance and Zanmai under the User Agreement and has stated that the User Agreement could be treated as an amalgam of two contractual streams, namely those between users and Binance; and those between users and Zanmai. However, the Learned Arbitral Tribunal has also noticed that the Broker Agreement contracted additional terms, and stipulated that in the event of a conflict between the two instruments the Broker Agreement would prevail. This is the manner in which the parties enabled both the User Agreement and the Broker Agreement to co-exist and operate.

24. The Learned Arbitral Tribunal has in fact found that the Broker Agreement would become an integral part of the User Agreement and that the only counterparty to brokers such as Bitcipher

is Zanmai which, from the material on record, admittedly stepped into the shoes of Binance, no matter howsoever reluctantly and under protest, when Binance disassociated itself from the WazirX Platform.

25. At this juncture, it is important to consider a prime contention on behalf of Zanmai, namely, that the Broker Agreement has been executed only to obviate two rounds of tax deduction at source to avail of the framework permitted by the Central Board of Direct Taxes. The upshot of this contention is that much should not be made of the Broker Agreement since it was but an arrangement to legitimately subserve the aforesaid objective of avoiding two rounds of tax deduction at source.

26. The Learned Arbitral Tribunal has dealt with this contention squarely by noting from the record that according to Zanmai, Binance had started disassociating itself from the WazirX Platform in August 2022. It is on August 18, 2022 that Zanmai and Bitcipher entered into the Broker Agreement, contracted to take effect from July 1, 2022. It is also an admitted position that Binance completely abandoned WazirX Platform in February 2023, and that too through social media posts, disclaiming responsibility for virtual digital assets stored on the WazirX Platform, which would have no association with Binance.

27. In my opinion, the contemporaneous execution of the Broker Agreement is consistent and contemporaneous with these substantive developments and it would be difficult to accept Zanmai's contention that the Broker Agreement was merely a simple instrument solely aimed at obviating double deduction of tax at source. Seen in this light, the substantive and significant interventions made in the Broker Agreement into the contractual arrangement between the parties cannot lend themselves to being regarded as a mere titular framework only to provide a means of obviating double deduction of tax at source.

28. Zettai, according to the Learned Arbitral Tribunal was never in the picture in the contract between the parties. The Learned Arbitral Tribunal has come to a view that when a party to the contract owes obligations to the counterparty in the contract, it would not be open to the obligor to transfer their obligations. Rights flowing from a contract may be amenable to transfer but not obligations.

29. It is evident that Zettai did not sign the Broker Agreement nor does it appear that all references to Binance in the User Agreement stood automatically modified to references to Zettai, with consent of the users for such change of obligor owing the existing contracted obligations. The Learned Arbitral Tribunal has noticed that Binance left

the scene and Zettai, which is but the parent of Zanmai, entered the scene.

30. Likewise, the facet of “socialisation” of losses needs to be dealt with. The term is nothing but a proposal to spread the losses arising out of the cyber-attack across multiple users of the platform – somewhat like a group insurance of a self-help group. The basis of such a proposition is not any term in the contractual framework between the parties. The basis is a scheme of arrangement proposed by Zettai in Singapore. Had the contract had such a framework at least in concept, it would have posed a basis to give the proposition strong credence. How such scheme propounded by Zettai in Singapore would bind Zanmai and its clients in India (parties to whom Zanmai held itself out as WazirX at least with effect from July 2022) is not at all borne out from the material on record.

31. The Learned Arbitral Tribunal has noted that Zanmai does not have an absolute liability but has a liability attributable to a reasonable duty of care. However, that does not mean the Learned Arbitral Tribunal has to necessarily hold that users and brokers registered on the WazirX Platform would be bound by a socialisation proposal initiated by a party outside the contractual framework among

them, to impact the contractual relationship between the parties. The very role of Zettai and the scope of its entry, which is based on the dissociation of Binance, is shrouded in mystery. A careful examination of the record would indicate that what the “acquisition” by Binance in 2019 was and what the terms of disengagement were in 2022 is unclear. In fact, Mr. Nischal Shetty, in his affidavit in the Singapore Court when propounding the scheme of arrangement that forms basis of the “socialisation” theory has firmly stated that he would not disclose the nature of the disputes with Binance for reasons of “confidentiality”. This presents a high degree of ambiguity at a foundational level, and the Learned Arbitral Tribunal cannot be faulted for perceiving vulnerability for Bitcipher and Nextgendev.

32. Having examined the fact that the virtual digital asset, subjected to the cyber-attack was ERC-20, the Learned Arbitral Tribunal has in fact, despite this observation about the scheme of arrangement and the “socialisation” has allowed a 45% haircut to the exposure of the Bitcipher and Nextgendev to the extent of 45% of their exposure to ERC-20. In other words, equitable considerations have weighed with the Learned Arbitral tribunal indicating that those assets which were not subjected to the cyber-attack could not be subjected to a haircut and indeed, since ERC-20 was compromised and stolen to the

extent of ~USD 235 million, a *pro rata* haircut was accepted by the Learned Arbitral Tribunal in the value of exposure to ERC-20.

33. Towards this end, taking the total value of the assets held by the Bitcipher and Nextgendev on the WazirX Platform, a 45% haircut has been applied to the percentage component of ERC-20 held in such portfolio of asset. The Learned Arbitral Tribunal has modified and moulded the relief to reduce the scope of the security to be provided by Zanmai to Bitcipher and Nextgendev.

34. *Prima facie*, what is apparent is that the WazirX Platform is a platform offered by Zanmai and its parent Zettai (holding 100% and also represented by the same Mr. Nishchal Shetty in proceedings in both jurisdictions) and was providing services to users in India. Those users who are brokers executed the Broker Agreement such as the one executed by Bitcipher. The Broker Agreement entails brokers such as Bitcipher providing access to the WazirX Platform to enable their clients to trade in a number of digital assets, which would be in the nature of a permitted listing. Therefore, while there were indeed two denominations for assets that could be transacted, one being the Indian Rupee stream and the other being the virtual digital asset stream, the cyber-attack led to theft of one of the many tokens traded. The services

that were meant to be provided in connection with the management of crypto asset was indeed indicated as Binance but what precisely was a nature of Binance's role in the WazirX Platform whether it was truly an owner or a brand associate is unclear. It is Zanmai's expectation that the Singapore Court would allow Zettai a haircut to be effected to those affected by the cyber-attack after Zettai took over services under Clause 5 of the User Agreement from Binance, can be translated into implications for Indian users on the WazirX Platform. Thereby, Zanmai was hopeful of placing restrictions across all assets held by all users on the WazirX Platform in India. The Learned Arbitral Tribunal finding this untenable and yet adjusting for 45% of the assets held in the form ERC-20 by the users, cannot be regarded as a perverse interlocutory *prima facie* finding. Indeed, the view that Bitcipher must be secured for its claim to its own assets, which were only stored on the WazirX Platform cannot be regarded as perverse or patently illegal, warranting any interference under Section 37 of the Act.

35. The virtual digital asset, held electronically are meant to be held in trust with a fiduciary duty owed to the owners of such assets. The owners of such assets indeed agreed that a cyber-attack in a security breach would constitute a *force majeure* situation. Equally, to assuage them, in the Broker Agreement Zanmai has explicitly agreed that

notwithstanding a cyber-attack being a *force majeure* event, WazirX Platform would take its best efforts uninterrupted performance of the Broker Agreement, and that too by treating WazirX as synonymous with Zanmai.

36. Whether a *force majeure* clause would affect the performance of services (leading to a hold) or whether it could even erode the very assets legitimately held by the users and not just access to further services is a matter for adjudication. If an asset is stored digitally on the WazirX Platform, the provision of services could perhaps be suspended namely, permission to trade or the ability to transact could be stalled owing to the *force majeure* event. But whether it can be held that the very asset would stand eroded due to a security lapse or security breach and such erosion can be validly spread across all users of the platform is a matter that would need to be adjudicated in terms of the User Agreement and the Bipartite Agreement. Pending such adjudication, the vulnerable party whose assets stand frozen is indeed entitled to protection. The Learned Arbitral Tribunal's view that the counterparties such as Bitcipher and Nextgendev are vulnerable to losing their entire value is not at all an unfair or an improper finding. In this light, the protective measure adopted by the Learned Arbitral Tribunal, for the reasons set out above, cannot be faulted.

37. To use those assets not belonging to Zanmai, and that too by Zettai, and to utilize them for covering losses attributable to other users is not something even on the face of it lends itself to a reasonable acceptance. In fact, the Learned Arbitral Tribunal has adjusted for such component of virtual digital assets which were subjected to the cyber-attack and indeed provided an interim haircut on the value of such asset. Therefore, the approach of the Learned Arbitral Tribunal cannot be found at fault with, on this count as well.

38. Indeed, the broker agreement makes no distinction between WazirX Platform and Zanmai, and the finding in this regard cannot be held to be arbitrary or unfair. The Learned Arbitral Tribunal has even taken care to hold that no absolute liability can be fastened on Zanmai and the Learned Arbitral Tribunal has only taken a measure that in its best judgment is intended to be protective and preservative of the subject matter of the arbitration agreement.

39. Apart from the aforesaid analysis, there is one another facet that is raised before me, in upholding the impugned order. If assets are held in the custody of a person under an agreement, it is for the person in whose custody those assets are, held to be accountable for the custody of those assets. It would not be open for that person to state that the

assets were handed over by him to yet another person without the consent of the person whose assets were handed over to him in custody. It is another matter if the person in whose custody the assets were meant to be held, faced an overwhelming and supervening *force majeure* event such as a cyber-attack and that facet would be dealt with by interpretation of the contract governing the party.

40. However, to state that the assets were entirely handed over to a party with no privity to the agreement and that such party is propounding a scheme of arrangement and in terms of that scheme of arrangement, no intervention must at all be made until and unless the scheme of arrangement runs its course in the Courts in Singapore, is rightly rejected by the Learned Arbitral Tribunal. I have also noticed that the Learned Arbitral Tribunal has left multiple substantial avenues of argument open to the parties and has come up with a reasonable approach of computing the values involved, moving them to the date of August 27, 2024 when the matter first came up. One does not know the value of the underlying assets as of today and the Learned Arbitral Tribunal has even provided for a bank guarantee to be submitted by the person in whose custody the assets were and were meant to be safeguarded. It is possible that Zanmai may not have the net worth and strength corresponding to the assets because the assets in the first place

never belonged to Zanmai. Equally, the corollary would be that Zanmai, not being the owner of the assets, ought not to have parted with those assets to Zettai, its own parent and without indicating what is the nature of the dispute with Binance that led to the current situation at hand. Even a case of equity is not made out for interfering with the Impugned Order. All that Zanmai has to do is regain control over the assets of its users and provide assurance that they are secure.

41. It is now clear that the scope of jurisdiction under Section 37 of the Act is to consider whether the Learned Arbitral Tribunal has come up with any arbitrary and implausible proposition in the course of what it considers to be an appropriate interim measure.

42. It is well settled law that an appeal is to be regarded as a continuation of the original proceeding. Equally, an appellate Court exercising the power under Section 37 of the Act to review the exercise of discretion by an Arbitral Tribunal is well guided by the principles set out by the Supreme Court in *Wander vs. Antox*¹ - may interfere only if there is something perverse or implausible in the exercise of discretion. The following extract would suffice:

1 Wander Ltd. Vs. Antox India (P) Ltd. – 1990 Supp SCC 727

14. *The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage, it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion.*

[Emphasis Supplied]

43. In a plethora of judgements, the principle articulated in *Wander vs. Antox* has been followed and reiterated. For the reasons articulated above, none of the principles stipulated in *Wander v. Antox* for interference are attracted in the fact of this case. I see no reason to make an intervention, disturbing the interim arrangement propounded by the Learned Arbitral Tribunal.

44. With the aforesaid observations, the Petitions filed under Section 37 of the Act, and all the attendant Interim Applications are *dismissed*.

45. The Contempt Petitions may be taken up for consideration on reopening of the Court after the vacation. Stand over the Contempt Petitions to *November 11, 2025*.

46. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]