

महाराष्ट्र MAHARASHTRA

● 2024 ●

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प्रधान मुद्रांक कार्यालय, मुंबई
प.मु.वि.क. ८००००९०

23 APR 2024

सक्षम अधिकारी

श्रीमती लता सांगळे

Arbitration Award
In the matter of Arbitration under Bye-Laws, Rules &
Regulations of National Stock Exchange of India LTD. (NSE)
A.M. No.NSE-SB-2023-12-754633

Between



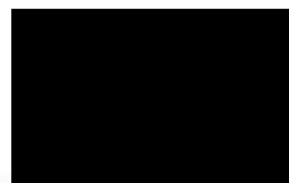
.....Applicant

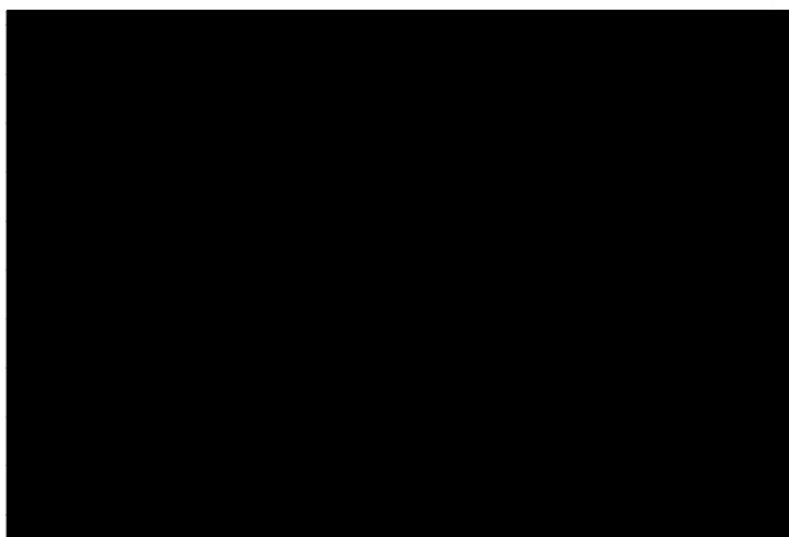
V/s



.....Respondent

Before the Sole Arbitrator





Arbitration Award

**In the matter of Arbitration under Bye-Laws, Rules &
Regulations of National Stock Exchange of India Ltd. (NSE)**

A.M. No.NSE-SB-2023-12-754633

Between

[REDACTED]

.....Applicant

V/s

[REDACTED]

...Respondent

Before the Sole Arbitrator

[REDACTED]

Appearances: (Through Video Conferencing)

For the applicant

[REDACTED]

For the respondent

[REDACTED]

[REDACTED] Undersigned was appointed Arbitrator by CORD on 9th February, 2024. The hearing was initially fixed for 11th March, 2024. It was rescheduled time and again on the request of the applicant from 19th March to 21st March and finally to 1st April, 2024 when the hearing was done through video conferencing. Hearing

also got delayed as Statement of Defense was provided by the respondent only on 26th March, 2024.

Brief facts of the case

[REDACTED] (TM No. 12798) allegedly squared off F&O position of the applicant on 24.11.2023 partially i.e. 1200 shares of HAL @ 2192/- and 1500 share of SBIN @ 564.9/- despite her claim of having maintained adequate margin in the account.

She requested the respondent on 28.11.23 to restore her position of 1200 HAL and 1500 SBIN after she bought shares of HAL @ 2324.9 and of SBIN @ 569. The respondent, however, did not provide her the credit.

She urged that she had been carrying this position for long and has always maintained sufficient margin. Restoring the position after repurchase of shares caused her a loss of Rs. 1,65,630/-. She wanted the respondent to compensate her for the loss. She pointed out that the respondent instead of squaring off her F&O position could as well have levied penalty as per the SEBI guidelines in the circular dated September 7, 2016. She quoted a similar case of Kushal Jain HUF where penalty was levied.

Since the respondent failed to compensate her, the matter was referred to [REDACTED] for conciliation. He attempted to settle the matter and a meeting through video conferencing was held on 19th January, 2024. During the hearing the respondent confirmed that while on 23.11.24 excess margin was available in her account, but on 24.11.23, there was a shortfall of Rs. 5,74,064.76. The applicant was duly informed through SMS to provide required funds which she failed to provide. The Conciliation was unsuccessful.

Feeling aggrieved the applicant applied for arbitration.

Written Statement by the Applicant.

[REDACTED] The applicant has stated that the conciliator disregarded her contentions and failed to consider SEBI circular dated September 7, 2016 relating to levy of penalty involving cases of shortage of margin, if any. She

reiterated that she had sufficient margin on 24.11.23 as per margin statement provided to her. If there was any shortfall as conveyed to her on 25.11.23, the respondent rather than squaring off her position could have levied penalty as per SEBI circular. As a result of squaring of her position, she has suffered a loss of Rs. 1,65,630/- which should be made good by the respondent.

Statement of Defence

In the statement of defense, respondent denied contentions and accusations levelled by the applicant alleging that facts were being distorted in order to recover money lost in securities market. Detailing the facts of the case it was stated that on 16.11.23, the applicant bought 1800 qty FUTSTK HAL and 1500 qty of SBIN and further bought additional 1500 qty of SBIN. The applicant was holding an open position for 1800 qty of HAL and 3000 qty of SBIN as on 23.11.23. The applicant had a credit balance of Rs. 13,22,957/- as on 23.11.23 and the value of shares pledged was Rs. 14,66,664.16. Thus, the total margin available in the applicant's account was Rs. 27,89,621.43, against which margin requirement was 22,90,594.90. Thus, applicant's position was sufficiently covered with the available margin but during the day, applicant purchased shares worth Rs. 14,85,732/- which resulted in reduction of available margin in her account. The ledger balance of the applicant become negative i.e. Rs. 72,849/-. On 24.11.23, available margin in her account was Rs. 13,87,205.74 against margin requirement for the open position of Rs. 19,61,260.50 It showed an upfront margin shortfall of Rs. 5,74,054.76. The applicant was duly informed about margin shortfall via SMS and the link to supply funds was provided. Since the applicant failed to make up the shortfall, the respondent was left with no other option but to square off the position. Respondent further asserted that the applicant being an online client was fully aware about the status of funds and margin requirement available in her account.

The applicant informed the respondent on 29.11.23 that she was going to restore 1200 qty of HAL and 1500 qty of SBIN and requested to credit the amount incurred by her. The respondent maintained that as the position was correctly squared off applicant cannot be compensated for losses suffered by her due to restoration/reinstatement of the positions.

It was further stated that the applicant had agreed to the terms and conditions for becoming a constituent of the respondent and had executed necessary documents governing inter-se relationship of the applicant and the respondent. As per clause 5 of KYC Handout, in the event of client failing to maintain applicable margin to sustain the outstanding market position on demand, the respondent is at liberty to liquidate/close all outstanding market positions and any loss arising from such square off position will be on account of the client. The respondent also mentioned that the reference to the complaint of Mr. Kushal Jain regarding SEBI guidelines relating to levy of penalty was not applicable and the claim of Mr. Kushal Jain has been rejected by the Conciliator vide report dated 12.02.24. Arbitration in the matter has been sought which is pending in the Exchange. However, this case had no relevance with this complaint filed by the applicant.

Submissions during video conferencing.

On behalf of the applicant [REDACTED] mentioned that the margin statement given at 11.00 AM showed positive margin availability. It was, however, admitted that SMS sent by the respondent regarding shortfall in margin were not seen by the applicant. However, the squaring off was done in post haste a few hours later. It was not possible for the applicant to deposit the amount sought in such a short time. The respondent is not willing to accept the mistake. Reasonable time should have been given; besides instead of squaring off penalty could have been imposed as per the SEBI circular dated 07.09.2016.


off

On behalf of the respondent, it was reiterated that squaring off was done in accordance with clause 5 of KYC. It was further pointed out that the provision relating to levy of penalty by the Exchange is applicable on Trading Member as per para 3(iv) of the September, 2016 circular of SEBI for default to square off and not on the investor.

eventually expressed the view that the respondent has been providing very good services in the past and he does not have any grouse but in the instant case they had acted in haste. However, in the interest of maintaining cordiality of relationship with the respondent he will not press for the claim any further.

Award: NIL as claim not pressed.

Dated: 09.04.2024



Arbitrator