



महाराष्ट्र MAHARASHTRA

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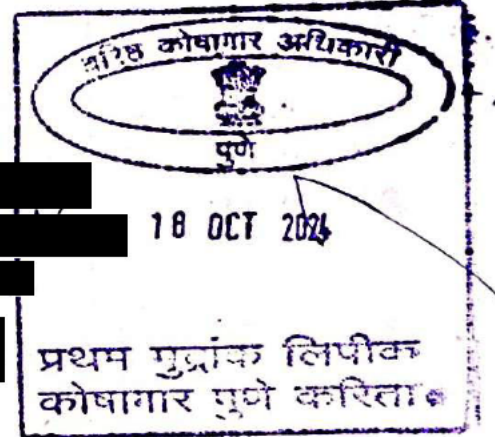
CU 043269

या कागदासाठी न्यायी मुद्रांक खरेदी केला त्याची त्याच कागदासाठी  
मुद्रांक खरेदी केल्यापसून ६ महिन्यात वापरणे संपनकारक आहे.

अनु.क्र. S2221 दि. 24 OCT 2024 मु.मु.रकम. 500/-  
दस्तावा प्रकार Ashbirendra Award.  
दस्त नोंदणी कोषागार समवेत का. १ कोष/राही  
मिळवलीने कागद  
मुख्य [REDACTED]  
पदा [REDACTED]  
दुरुन्याय पक्षकाराचे [REDACTED]  
हस्ते व्यक्तीचे नांव व पदा [REDACTED]

मुद्रांक विकत घेणाऱ्याची सही

परवाना क्र. २२०११३०  
७२१, गुरुवार पेठ, पुणे-४०



**Before the Sole Arbitrator: [REDACTED]**  
**In the matter of Arbitration under Master Circular for Online  
Resolution of Disputes in the Indian Securities Market**

**Matter No: NSE-SB-2024-02-359767**

**Between**

[REDACTED]

**Phone:** [REDACTED]

**Email:** [REDACTED]

**Address:** [REDACTED]

[REDACTED]

**Complainant/ Applicant**

**And**

[REDACTED]

**Phone:** [REDACTED]

**Email:** [REDACTED]

**Address:** [REDACTED]

[REDACTED]

[REDACTED]

**Respondent**

CORD (Centre for Online Resolution of Dispute) is an independent institution facilitating and administering electronic Alternative Dispute Resolution via its online platform, <https://platform.resolveoncord.com>, also referred to as Online Dispute Resolution ("**ODR**") Institution, having its registered office at Bangalore.

CORD has been empanelled by the National Stock Exchange in accordance with the SEBI Master Circular No. SEBI/HO/OIAE/OIAE\_IAD-1/P/CIR/2023/145 dated August 11, 2023 ("**SEBI Circular**") as may be amended/modified from time to time, for undertaking time-bound online Conciliation and online Arbitration.

The above-mentioned matter was referred to CORD via SMARTODR.IN (“**ODR Portal**”), a common Portal established by the Market Infrastructure Institutions (“**MII**”) in accordance with the SEBI Circular, for harnessing online Conciliation and online Arbitration for resolution of disputes arising in the Indian Securities Market. Further, the parties have accepted the terms and conditions of ODR Portal.

The undersigned has been appointed as Sole Arbitrator on 08th of August 2024 by CORD, in the present matter.

**A) HEARINGS**

In the matter no. **NSE-SB-2024-02-359767**, the Arbitration hearing was held on 10<sup>th</sup> September 2024 and 13<sup>th</sup> September 2024, through CORD Portal via video conferencing.

**B) UNDISPUTED FACTS**

On 08.02.2024 the client for bought 5000 RE shares of India Bulls Housing Finance (Hereinafter ‘RE Shares’) @ Rs. 43.15 Per shares for which contact Note No. [REDACTED] was issued by the TM indicating settlement date as 09.02.2024. It is also not disputed and also reveals from record that the right issue of the India Bulls Housing Finance Ltd was to be closed on 13.02.2024 and Last date for on Market Renunciation for same was 08.02.2024.

**C) STATEMENT OF THE CASE BY THE APPLICANT**

The claimant, in this arbitration proceeding, seeks an award against [REDACTED] for the financial loss suffered due to negligence, miscommunication, and failure to provide adequate guidance and support regarding the purchase and payment for **India Bulls RE shares**. The claims are as follows:

- The claimant purchased **India Bulls RE shares** on **8th February**, which were reflected in the claimant’s portfolio on **9th February**.
- On **10th February**, the shares disappeared from the portfolio. Upon contacting the Relationship Manager (RM), [REDACTED], the claimant was informed that the shares had been “closed out” as per SEBI/Exchange rules. This was **factually incorrect**, as later admitted by [REDACTED]

- Despite repeated assurances from [REDACTED] that the claimant would receive an official email, regarding “close out” no such communication was sent, leaving the claimant in uncertainty.
- On **11th February**, the claimant made several attempts to clarify the situation and ensure payment within the required timeframe. [REDACTED] escalated the matter to [REDACTED], a senior representative at [REDACTED], who reiterated the incorrect information that the shares had been closed out.
- On **13th February**, [REDACTED] informed the claimant that the shares had, in fact, been credited back to the account, indicating a **misunderstanding** and a serious lapse in internal communication.
- The claimant repeatedly requested documentation and guidance on how to make the balance payment for the RE shares. [REDACTED] **failed to provide any such support or instructions**, leaving the claimant unable to complete the necessary payment.
- As a direct result of this lack of support, the claimant incurred a financial loss of **₹2,16,000**, which would have been avoided if Sharekhan had acted responsibly and promptly.
- When the claimant raised concerns about the financial loss (on 14.02.2024) and requested further assistance, [REDACTED] representatives claimed ignorance about the nature of RE shares and dismissed the issue, stating that the loss was solely the claimant’s responsibility.
- Upon the claimant’s indication of escalating the matter to **NSE/SEBI**, [REDACTED] representatives, including [REDACTED], responded dismissively, stating that **no action would be taken against large brokers**, reflecting a disregard for regulatory accountability.
- During the conciliation meetings over the past **three months**, [REDACTED] lawyer admitted that **false commitments** had been made by their team. Despite this admission, [REDACTED] has failed to resolve the issue or compensate the claimant for the losses incurred.

- The ongoing delay in resolution highlights [REDACTED] **negligence** and their unwillingness to take responsibility for their team's misguidance and miscommunication.
- The claimant seeks an award for **₹2,16,000**, representing the financial loss suffered due to [REDACTED] mismanagement, miscommunication, and failure to provide timely and accurate guidance.
- The claimant also requests that [REDACTED] be held accountable for their unprofessional conduct, including the dismissal of legitimate concerns and the failure to assist in resolving the issue in a timely manner.

**D) STATEMENT OF DEFENCE BY RESPONDENT**

- The Respondent **denies all allegations** made by the Applicant and argues that the **Applicant's claim is exorbitant** and without merit. The claim is subject to dismissal on several grounds.
- The Respondent relies on the **Letter of Offer** for the "India bulls Housing Finance Rights Issue 2024" (Annexure B), which directs any grievances to the **Registrar to the Issue** or the **Company Secretary**. The Respondent has **no role in the right issue process**, and the Applicant has **not demonstrated** that they applied for the issue or made payment.
- The Respondent contends that the **Online Dispute Resolution (ODR)** process under which the arbitration is conducted has **no jurisdiction** over the claim as it does not involve NSE or SEBI-related matters.
- The Respondent asserts that its role as the **broker** ended with the completion of the trade on **8th February 2024**. The trade was settled on **9th February**, and shares were delivered to the Applicant's Demat account (Annexures C and D).
- The Respondent had **no obligation to inform** the Applicant about the right issue or any payment deadlines. They argue that the Applicant's reliance on another broker's practices [REDACTED] is irrelevant.
- The Respondent clarifies that a **misunderstanding** arose during Whatsapp communication on **12th February 2024**, where the Respondent's personnel responded **unsurely** about the right

issue status. The Applicant should have **contacted customer care** or checked their account online.

- The Applicant did not apply for the right issue or make any payment by the **13th February 2024** bid deadline. The Respondent highlights that the Applicant **knew the process**, as evidenced by an example from a friend presented during conciliation. The Applicant's failure to act led to the **extinguishment of the shares on 20th February 2024**, for which the Respondent bears no responsibility.
- The Respondent prays for the following reliefs:
  - **Dismissal of the Applicant's claim** for ₹2,16,000, stating it was filed with **malicious intent**.
  - An award of **costs** for arbitration in favour of the Respondent.
  - Any other orders that the Tribunal deems fit in the circumstances of the case.

#### **E) FINDINGS WITH REASON**

- It is not a fact in dispute that as per KYC documents/contract between parties all the rules regulations and provisions of SEBI and exchange shall be applicable and govern the parties as applicable from time to time
- Clause 4.1.4 of National Stock Exchange (Capital Market) Trading Regulations 1994 (NSE CM) provides that :-

*“4.1.4 Each trading member shall at all times maintain such infrastructure staff communication facilities records so as to be able to service his constituents satisfactorily and as per their requirements enumerated in the exchange Bye Laws, Rules and Regulations or any other relevant act (s) in force for the time being.”*

Similarly Section 25 of Securities Exchange Board of India (Brokers & Sub-brokers) Regulations, 1992 also impose a liability for contravention of the act, rules or the regulations and sub clause (xv) and (xvi) of section 26 of the said regulations also provides for liability for monetary penalties on stock brokers as followings:-

*“(xv) Failure to comply with directions issued by the board under the act or the regulations framed there under”*

*“(xvi) Failure to exercise due skill, care and diligence”*

It is also relevant to mention here that SEBI in its SEBI (Stock Brokers & Sub-brokers) Regulations 1992, has given a high priority for solving the grievances of Investors. Regulation 9 mentions that broker's registration is subject to the condition that (apart from other conditions) broker shall take adequate steps for redressal of grievances of the investors within one month of the date of receipt of the complaint and inform the Board as and when required by the Board. Likewise, Regulation 18 A (1) of the Stockbrokers Regulations mandates that every stock broker shall appoint a Compliance Officer who shall be responsible for monitoring the compliance of the Act, rules and regulations, notifications, guidelines, instructions, etc., issued by the Board or the Central Government and for redressal of investors' grievances. Regulation 26 of the same Regulations provides for levy of monetary penalty for failure to redress the grievances of investors within 30 days of receipts of notice from the Board.

Therefore, in the light of above rules, regulation and provision of law, the matter in hand has to be considered in the overall facts and circumstances of the case.

**F) OBJECTION REGARDING JURISDICTION**

- So far as objection regarding Jurisdiction is concerned it has been submitted by the TM that they have no role in entire process of the right issue and were never under any obligation to share any kind of communication to the applicant and it has been mentioned in the statement of defence that: -

*“Application to right issue is not an activity that is carried out on the on the platform of NSE or falls under the nature of complaint entertained at SEBI Scores and thus the NSE or the Online Dispute Resolution (ODR) under which the present proceedings are been carried out would have no jurisdiction to adjudicate upon the dispute and for this reason the present claim is liable to be dismissed.”*

But on perusal of the statement of claim and material submitted. It is apparent that as per averment of the claim the grievance of applicant is with regard to negligence failure of the service by the TM and also regarding providing wrong and false information's,

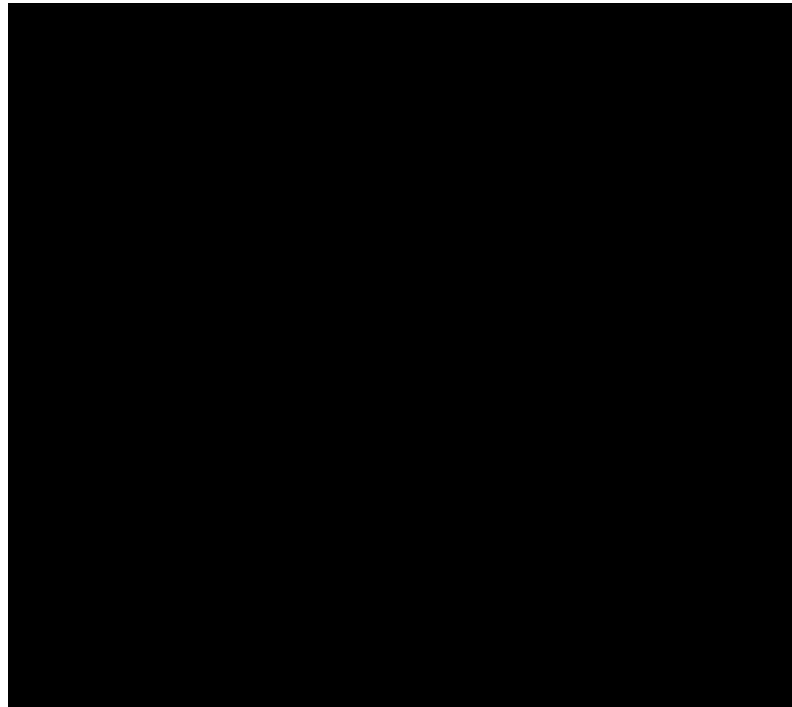
because of which applicant could not pay the remaining due amount of RE resulted in Loss of Rs. 2,16,000.00 (Two Lacs Sixteen Thousand only).

Therefore, this Arbitral Tribunal has jurisdiction to examine the issue raised by the claimant and also to examine that whether there is any fault in providing satisfactorily services and whether the TM exercise due skill, care and diligence.

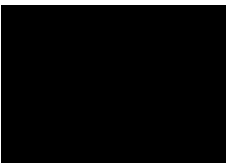
Hence objection regarding maintainability of complaint for want of jurisdiction is overruled and rejected accordingly.

**G) REGARDING CLAIM OF THE CONSTITUENTS**

- In support of his claim the applicant filed Whatsapp Chat dated 11.12.2024 and 13.02.2024, with [REDACTED] appointed as Relationship Manager (RM) by the TM. To support his claim which reads as following: -



- Though with regard to above Whatsapp chatting, the respondent [REDACTED] has admitted said chatting by referring above chatting in paragraph 4 (c) and (d) of its statement of defence and also submitted explanation with regard to intention of its personnel, by stating that:-



*“c. ... “if one looks at the chat presented, one may understand that, text on right hand side shows text sent by the Complainant to Respondent personnel inquiring about aforesaid mentioned trade dated 8th February, 2024 and in response Respondent personnel couldn't understand Right issue properly and thus responded on unsure basis and use word "hase" in Gujarati language, which indicates probability, to which ideal step that should have been followed by Applicant was to call Respondent Customer Care number or should have checked his account online for removal of any doubt.”*

*d. Respondent further submits that, from perusal of date and time of the chat it's clear that for trade dated 8th February that was already settled on 9th February and shares been delivered to him is admitted position by the Applicant, the Applicant was again checking about his where about of same trade on Whatsapp on 12th February , raises questions in view of Applicant been trading in the market online on his own and understands the nitty - gritty of market . After bid was closed on 13th February 2024 for the Right Issue , Applicant sent Whatsapp communication on 14th February about non receipt of Auction bill, but throughout message , Respondent never indicated that it's in Auction.*

Accordingly, above Whatsapp chatting doesn't seems to be a fact in dispute but even though, it was specifically asked by this Tribunal during the hearing to the TM that as claimed by the claimant whether [REDACTED] was appointed and working as RM or not and to submit his response on above Whatsapp chat but neither said question was responded in negative nor any material/evidence has been produced on behalf of TM to contradict said fact as alleged by the claimant. Therefore, this Tribunal have no reason to disbelieve the claimant on said uncontroverted material/evidence and accordingly as claimed by the applicant it is apparent that RE shares of India Bull which were purchased by applicant were shown on 9<sup>th</sup> February 2024 were not appearing in his portfolio and on complaint it was explained on behalf of the TM that due to T2T “close-out” said shares are not appearing in claimant account.

- Referring Annexure ‘D’ filed by TM. It has been argued on behalf of TM that the RE shares were appearing in the account of the client since 09.02.2024 to 19.02.2024 and were never disappears, if it was so than how and why the RM [REDACTED] and also [REDACTED]

informed the claimant regarding 'close out'. Thus, in any case it was fault on behalf of TM whether it was a incorrect communication or a disappearance of RE Shares during the said period.

- It is also apparent that even on 13<sup>th</sup> February 2024 when close out invoice was not received by claimant, he stated his grievance in very specific words that:-

*“Today is Last day to pay difference, if difference not paid then he will suffer a loss of Rs. 2 lakh.”*

- Therefore, this Tribunal has no reason to disbelieve the averment of claim supported by documentary evidence and accordingly no hesitation to held that the TM was failed to provide services to the satisfaction of the claimant. Rather incorrect information regarding 'Close out' was communicated on behalf of the TM.
- Though shirking the shoulders it has been stated by the TM that he was not responsible to communicate the mode of payout of difference amount of RE, which were bought by claimant in the Trading Account with the [REDACTED] but as submitted with supporting document of other Trading Members it appears to be a liability of the TM to provide such information to its client who bought RE shares from its Platform. Even if it is considered otherwise also when it was specifically asked by the client to know the mode and link regarding payment of difference amount it was neither specifically replied nor informed till last date of the payment for difference amount i.e. 13.02.2024. And thereafter only claimant was suggested by TM to contact the registrar of the India Bulls Right issue namely "FINTECH", and as Per the claimant when he contacted to "FINTECH" it was informed by FINTECH over phone that if you are Pre-holding India Bulls shares then you would have received instruction on mail from our end for RE shares payment, since you have purchase from market then it's your brokers duly to share all information& we had mailed [REDACTED] all details.
- Accordingly, it is apparent that it is a case of failure on part of TM to provide service to his constituents (claimant) satisfactorily and as per their requirement and also failure on part of TM to exercise due skill, care and diligence and The incorrect information, communicated resulted in a loss to the Clint to the tune of Rs. 43.15

x 5000 = Rs. 2,15,750/-. Therefore, the TM is held responsible to pay said amount to the claimant.

- It also appears that TM was also failed to solve the grievances of the investor/claimant within a reasonable time and in a reasonable way as required by SEBI (Stock Brokers & Sub Brokers) Regulations 1992.

#### **H) CONCLUSION**

- Accordingly, it is held that client is entitled to recover an amount of Rs. 2,15,750.00 (Two Lakh Fifteen Thousand Seven Hundred Fifty only) from the respondent/TM as discussed above.
- The applicant/claimant will also entitle for an interest @ 9% on said awarded amount of Rs. 2,15,750.00 (Two Lakh Fifteen Thousand Seven Hundred Fifty only) from the date of publication of this award.

#### **AWARD**

#### **I) RESULTANTLY**

- The claim of the applicant/client is allowed and it is held and directed that the applicant/client [REDACTED] is entitled to recover an amount of Rs. 2,15,750.00 (Two Lakh Fifteen Thousand Seven Hundred Fifty only) from respondent [REDACTED] and the respondent [REDACTED] Ltd. is liable to pay said amount of 2,15,750.00 (Two Lakh Fifteen Thousand Seven Hundred Fifty only) to the applicant/client [REDACTED].
- The applicant/claimant will also be entitled for an interest @ 9% on said awarded amount of Rs. 2,15,750.00 (Two Lakh Fifteen Thousand Seven Hundred Fifty only) from the date of publication of this award till date of actual payment of said amount.
- In the fact and circumstances of the case the TM shall also pay Rs. 10,000 (Rs. Ten Thousand) to the claimant, towards the cost and expenses.

[REDACTED]  
(Sole Arbitrator)