



सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

₹150

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Statutory Alert:

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BEFORE SOLE ARBITRATOR [REDACTED] H.J.S. RETIRED DISTRICT JUDGE
(ARBITRATOR NSE, BSE, AND SEBI HIGH COURT, LUCKNOW BENCH)

Claimant: [REDACTED]
Contact: [REDACTED]
Email: [REDACTED]
Address: [REDACTED]
[REDACTED]

----- CLAIMANT

AND

[REDACTED]
Phone no: [REDACTED]
Email: [REDACTED]
ADDRESS: [REDACTED]
[REDACTED]

----- RESPONDENT

AWARD

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 (Centre for Online Resolution of Dispute) has been empanelled by National Stock Exchange in accordance with the SEBI Master Circular No. SEBI/HO/OIAE/OIAE_IAD1/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.

CORD Arbitration resolution vide its letter dated 07-07-2024 appointed me as Arbitrator and referred to the Arbitration dispute between the above referred parties on its platform.

[REDACTED]

(2)

BRIEF FACT IN DISPUTE

The only dispute after two dates of hearing remains between parties is whether Interest on MTF charged by opposite party is justified or not and the entitlement of adequate security margin for trading on MTF. NSE Circular NO. NSE/INSP/57639 dated July 20, 2023, relied upon which requires balance sheet from trading member on MTF position, so stockbroker have to maintain adequate margin in MTF trading.

During the hearing on 08-July-2024 and 12-July-2024, the claimant was asked to mention what loss he suffered and claim in this Arbitration Proceeding Opportunity was afforded to him. Then he utterly furnishes the loss of interest claimed on his cash collateral in MTF position to an extent of rupees 4300/- and claimed amount.


The respondent representative asked whether he is ready to settle this petty amount of claim to avoid unnecessary further litigation. But it appears that representative of respondent was quite rigid instead of SORTING out the dispute, he desires to prolong the litigation. He was even given opportunity to consult his Head But he was too rigid in settlement of claim for such a petty amount of Rupees 4300/-.

HEARING-Hearing through video conferencing provided by CORD platform done on 08-July-2024 & 12-July, 2024. Complete assistance have been provided by case manager CORD platform in hearing. The minutes of hearing were recorded Claimant in person and BFSL: through authorized representative participated in proceedings. Full opportunity has been afforded to both parties.

DISCUSSION

During hearing and in reply also the respondent relied upon the latest circular issued by SEBI, NSE and its own institution. This arbitration is on all admitted facts so need no more discussion. The dispute only rests in MTF trading whether respondent trading member can charge interest on part of cash collateral invested by claimant. Admittedly the circular issued by SEBI and NSE are binding on parties. Relevant circular as discussed are as follows: -

FACTS: Applicant opened account on December 22, 2023 on MTF plan since 23 November, 2023, NSE issued Circular No. NSE/INSP/57639 dated July 20, 2023 communicated to all investors, Not disputed. SEBI CIRCULAR; CIR/MRD/DP/54/2017 dated June 13, 2017 and SEBI CL NO. SEBI/HO/MRD/MRD-PoD-3/P/CIR/2022/166 DATED November 30, 2022 for collection of margins and maintenance of margin to avail MTF perused. It clearly states that initial margin payable by client to stock broker shall be in form of Cash/Cash Equivalent or group equity shares etc. with opportunity haircut. I have gone through all relevant circulars with regard to MTF trading.



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There is nothing mentioned that trading member can charge interest on cash collateral in MTF trading from client. Infact how you can take interest on fund in cash given by investor for trading. It is definitely a false practice had been adopted by opposite party which at anyways is not justified.

The claimant asserts that he confined his claim now this genuine relief for refund of interest charged on cash deposit. It is not in exact spirit of respondent who refused to concede on this genuine claim;

As far as other issues, like release of cash collateral, upstreaming of client fundshare procedural issues not an issue in an arbitration proceeding. Even claimants have not pressed these issues. As far as Respondent's (BFSL's) view "differential treatment of Equity and cash collateral is a risk management measure designated to protect client interest and maintain compliance to SEBI circular. I may agree but how it get right to respondent to charge interest on cash collateral provided by claimant. This money is not invested by respondent then how they can charge interest on that amount. Accordingly, I am of the view that claimant is entitled for refund of interest levied against him to extent of Rs4300/- and liable for an award for this amount."

ORDER

The claim of claimant investor [REDACTED] is partially allowed against opposite party, and award is therefore passed against Respondent [REDACTED] as follows; -

(A) Respondent is directed to pay the applicant a sum of Rs. 4300/- (Four Thousand and Three hundred only). The respondent is directed to comply this AWARD within 10 (TEN) days positively after the order is served by CORD Platform to respondent.

(B) Cost will abide by the NSE Regulation.

(C) The Award will be prepared in triplicate; the original will be retained with the CORD and one copy each will be served on applicant and respondent.

Dated 23 July 2024
Ghaziabad H.J.S.

[REDACTED]
[REDACTED]
SOLE ARBITRATOR
Retired Judge