



महाराष्ट्र MAHARASHTRA

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CP 896447

अनु.क्र. 27735 06 AUG 2024 500/-

दस्तावा प्रकार Arbitral Award

दस्त नोंदणी करणार आहेत का? होय/नाही

मिळकतीचे वर्णन

मुद्रांक विकत घेणाऱ्याचे नांव

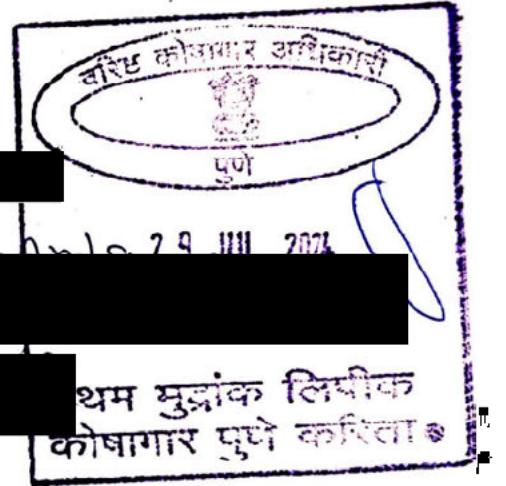
पत्ता

दुसऱ्या पक्षकाराचे नांव

हस्ते व्यक्तीचे नांव व पत्ता

मुद्रांक विकत घेणाऱ्याची सही

परवाना क्र. २२०११३०  
७२१, गुरुवार पेठ, पुणे-४२



Before The Sole Arbitrator

In the matter of Arbitration under The Master Circular for Online Resolution of Disputes  
in the Indian Securities Market

Arbitration Matter No. NSE-SB-2024-03-405891

[REDACTED]

, ..... **Applicant**

**VERSUS**

[REDACTED]

..... **Respondent**

**Hearings via Zoom Call organized by CORD**

<b>Date of Hearing</b>	<b>Applicant's Representative</b>	<b>Respondent Representative</b>
Thursday, 04 July 2024	[REDACTED]	[REDACTED]

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

[REDACTED]

and conditions of ODR Portal.

The undersigned has been appointed as an Arbitrator by CORD on 17 June 2024 in the present matter.

## **AWARD**

### **PART-I: The Dispute**

1. This is a dispute between [REDACTED], hereinafter referred to as the **Applicant**, and [REDACTED], a Company duly registered under the Companies Act, 1956, engaged in stock broking hereinafter referred to as the **Respondent** regarding loss caused to the applicant by the respondent by investing the applicants money without his express permission to do so. The applicant now demands that the respondent should make good the losses to him to the tune of Rs 2, 77, 086.19 (including arbitration charges of Rs 3186.00).
2. The dispute first went for conciliation in accordance with the rules of SEBI/NSE in the month of March 2024, more particularly on 08<sup>th</sup> March 2024 before the honorable conciliator [REDACTED] and the conciliation has failed. Details of the conciliation have not been disclosed to this Arbitration Tribunal by the case manager M/S CORD taking the protection under section 75 of the Arbitration and Conciliation Act, 1996. Therefore, no further pursuance with regards to what transpired during the process of conciliation has been made by this tribunal. This award is made based on the documents made available during the course of hearing, personal hearings Thursday the 4<sup>th</sup> of July 2024, statement of claim submitted by the applicant, the statement of defense submitted by the respondent, and the additional submissions, made by the responded vide his additional details statement dated 09<sup>th</sup> July 2024, call recordings, statements of accounts, SEBI circulars, and e-mail correspondence.

### **PART – II: The Statement of Claim by the Applicant.**

3. During the personal hearings and in writing the applicant has advanced the following arguments in support of his claim of losses to be recovered from the respondent.
4. That the applicant had made an investment of Rs. 10,00,000/-with the respondent in July 2021 looking at the reputation of the respondent for carrying out trade transactions in good faith to fetch maximum returns. It came to the applicant's notice that huge losses were booked with respect to various transactions.
5. That the applicant wishes to clarify that he was under the impression that he had been dealing with a reputed respondent and he therefore had to give consent to trade transactions. Therefore the consent was always given in good faith with understanding that the respondent would act without any negligence.
6. That there was a Paytm stock loss of Rs. 45, 452.60 resulted from the action taken by the respondent without the consent of the applicant as per the agreed terms and conditions. The applicant further argues that therefore the respondent is squarely



responsible for the same and the respondent has to make good for the loss. The quantum of loss was Rs. 45,452.60 and the same was never telephonically disclosed to the applicant. The applicant argues that the respondent has failed to provide during the conciliation process, if there was any recording of the consent given by him for the transactions to be carried out resulting the Paytm stock loss of Rs. 45, 452.60 and the same was ignored by the conciliator.

7. That the applicant repeatedly asked for breakup of investment of Rs. 10,00,000 (WhatsApp. no: [REDACTED]) on 20th March 2023 and [REDACTED] dated 28th July 2023 and also on several occasions during regular interactions but the details were never provided in order to cover up the PAYTM losses. Despite repeatedly flagging the issue the respondent, the applicant argues, has chosen to be silent on the issue. The same was ignored in the conciliation process.
8. That the applicant avers that respondent has repeatedly pointed out that I (the applicant) was logging in app of the respondent but the applicant wished to clarify that logged in the equity section and never in the derivative section.
9. That the respondent could have provided digital evidence contrary if any to that effect. The loss booked on account of derivative transactions has been reported as Rs. 2, 28,448.59. That the applicant admits that unknowingly and in good faith he had consented for these transactions with the understanding that the investor was required to give consent for such transactions and more important that the respondent was a reputed company, and it would also protect the interest of the investor.
10. That the applicant further argues that the respondent has contended that the applicant was regularly logging in the derivative section but no evidence to that effect was provided. The applicant strongly argues that the conciliator chose to accept the contention of the respondent without providing any evidence by the respondent.
11. That the losses from July, 2023 were being continuously booked but the respondent officials suppressed the losses and never informed me during their regular telephonic conversation with me. No pay out was made for July, 2023 and despite my persistent questioning the respondent official have not answered. To suppress the matter pay-out was made for August, 2023 despite losses. The respondent has not commented on these issues and the conciliator has chosen to remain silent on the same.
12. That when the shares to the tune of Rs.3, 33,464.24 were sold on 14.07.2023 and no permission was obtained for using the cash component as collateral for the derivative trade. The respondent has not commented on the same and the conciliator has chosen to remain silent.
13. That the respondent has no monitoring systems in place as continuous losses were being booked wiping out the principal amount went unnoticed. The respondent did not obtain my permission for marking lien over cash available for derivative transaction. The respondent has not commented on the same and the conciliator has been silent on the same.
14. That in view of the aforesaid it is clear that there has been complete lack of transparency and noncompliance of the instructions of the investor. The respondent has suppressed

about the losses with a malafide intention. There has been poor customer service and also misrepresentation of facts.

15. That it is important to observe that the respondent was charging commission for the services rendered and it was duty bound to act in good faith and without negligence to protect the interest of the investor. There has been complete lack of monitoring.
16. That the employee of the respondent [REDACTED] who had been dealing with me was removed from the services of the respondent after the losses surfaced. The respondent has informed that he had left the job. That therefore the respondent should make good for losses of Rs. 2,77,086.19 (including arbitration charges of Rs. 3186.00) immediately without any further loss of time.

### **PART-III: Respondent's arguments**

17. The respondent has submitted their statement of defense, advanced their arguments on the day of hearing, and supplied additional details in support of their rejection of the claim by the applicant. The respondents has categorically stated:
18. That the Respondent, [REDACTED], as an entity, is duly registered with SEBI and is a Trading cum and Clearing Member of the National Stock Exchange of India limited {hereinafter referred to as "NSE") and dealing in shares and securities as per the Rules, Bye-laws and Regulations of the NSE.
19. That with regards to allegation raised by the Applicant concerning the unauthorized execution of Paytm shares trade in his account without his knowledge, Respondent hereby submits that the Applicant had bought 100 shares of Paytm at Rs. 1117.30 per share on 14<sup>th</sup> January, 2022. These shares were subsequently sold on 14 March, 2022 by the Respondent at Rs. 675.47 per share thereby resulting in a loss of Rs. 44,183. The trade confirmation and intimation messages were duly sent to the Applicant on his registered mobile number i.e. [REDACTED]. Additionally, the respondent had issued and delivered documents to the Applicant including contract notes, ledger statements, and DP transaction cum holding statements, which were duly received by the Applicant via email at his registered email address i.e. [REDACTED]
20. That Issuance of a contract note serves as confirmation from the trading member that the trade aligns with the client's instructions. This confirmation is pivotal for both parties to acknowledge the successful completion of the transaction. The contract note assumes a crucial role in the settlement process, acting as the foundation for reconciling trades. It ensures that financial obligations, such as payment for purchased securities or the delivery of sold securities, are met by the agreed-upon settlement date. Functioning as a legally recognized document, the contract note serves as an audit trail for regulatory purposes. It provides transparency and fosters accountability in financial transactions, enabling regulatory bodies to monitor and ensure adherence to market regulations.
21. That to further substantiate their stand that the trades were made with the consent of the Applicant and that he was aware of all the trades that were executed in his [REDACTED]

account, and the call recordings for the disputed transactions that clearly show that consent was obtained before execution of the transactions.

22. That furthermore, regarding the transactions conducted through our dealer for F&O trades, Applicant is claiming that he was very well aware of the trade transactions executed in the derivatives section wherein he suffered a loss of its. 2,28,448.59 but he was not aware about the loss. Here it is important to emphasize that all such transactions were carried out in the Applicant's account with his prior consent and *also* relevant trade confirmations were sent to him via SMS and emails on his registered mobile number and email ID.
23. That it should be noted that consent can be expressed through various forms of conduct. When the Applicant agreed to engage in these trade transactions, it is reasonable to expect that he would have carefully assessed the financial outcomes of his account to determine whether these transactions resulted in profit or loss. Hence, it appears that the applicant is making these allegations with frivolous intent solely to recover losses from the respondent.
24. That it's important to note that SBEI has done away with client registration agreement & various documents required to be signed at the time of inception of the account by the clients. Here, Applicant has signed certain mandatory documents such as KYC, Rights and obligation of stock brokers & clients, **Risk disclosure documents** (RDD), guidance notes detailing Do's and Don'ts for trading, Policies and Procedures and Tariff sheet as to brokerage agreed upon etc. Additionally, the Applicant had given a mandate letter to the Respondent, for receiving electronic contract notes & other reports in electronic form, wherein the Respondent had respectfully obliged their duty of sending all the trade confirmations to the Applicant on regular basis. Thus, Applicant cannot hold the Respondent responsible for his losses which he incurred due to his own trading decisions and negligence.
25. That moreover, as their records indicate that Applicant had logged in on numerous occasions using his account credentials to their trading account, this frequent activity is clear evidence that Applicant was fully aware of his account's status. The applicant should have taken note of the purchase prices and the **subsequent sale prices** of the shares. The Applicant has received payouts in his account which signifies the realization of profits and not just losses. Furthermore, it is worth mentioning here that, Applicant had made huge pay-in of funds to Rs. 10 lakhs on various occasions and also taken the pay-out of its.4, 46,849 between his trading tenure. However, it is imperative to emphasize that in the event of any **financial losses within** Applicant's account, it is inappropriate to apportion complete **blame to the dealer for such** losses, **given the** inherent volatility of **the market, it is plausible to** encounter either profits or losses. Consequently, Applicant's asserted claim is not sustainable and is subject to dismissal.
26. That we hereby humbly request to the Hon'ble panel members to please understand the awareness of the Applicant and also consider all our trade confirmation which was provided to the Applicant for all the disputed transactions. He is making an afterthought complaint as it is merely based on surmises and not backed by any concrete evidence and requests you to refrain from maligning our goodwill any further, The loss suffered by the Appellant in the aforesaid trading account is due

to his own trading decisions and due to his negligence, and cannot be passed on the Trading member. The broker cannot be held liable for the loss arising in his account due to market volatility. Thus, the same is not accepted under any law.

27. That with regards the Applicant's allegations that all the consents were provided in good faith and that he had no understanding of the implications of his consent or the transactions being undertaken, the respondent would like to submit that such a statement is not tenable. Consenting to trades is an indispensable part of the transaction flow. By giving his explicit consent the Applicant is believed to have understood the nature and the implication of the trade that is being executed in his account. The Applicant at no given point in time implied or informed that he was unaware of the outcomes of the trades that his consent would give nor at point did he ever question the [REDACTED] on any of the trades he was consenting to. It is not out of place for the respondent to state that the Applicant is merely trying to shift the burden of the losses that he incurred as a result of his trading decisions, it is not maintainable that the Applicant was aware of the transactions but not the profit/ loss resulting from his transaction decision.
28. That it is also important that the Applicant's conduct during the execution of the trades be taken into account apart from all the documentary evidence. At every point of execution the Applicant was made aware about the transactions being executed in his account and the trades were placed with his knowledge. He had all the means to access his portfolio and check the current status on any day. Furthermore, it is pertinent to note that exchanges also send an EOD balance SMS to every client on a daily basis.
29. The respondent in a separate statement on 09 July 2024 further submits:
30. That the respondents wish to highlight here that, the Applicant has opened his account by opting Internet Based Trading ("IBT") facility with us on March 17, 2010. The Applicant subsequently utilized our online trading application on multiple occasions, successfully accessing their account using their login credentials. With respect to paytm share transaction, we hereby wish to highlight that, the applicant has also logged-in to his online trading application through his mobile on January 17, 2022 which is post buying of paytm share i.e. on January 14, 2022 to verify his account details. However even after verifying the records online he had never raised any concern to us.
31. That they refute the Applicant's statement that he had logged-in in equity section and not the derivative section. We also humbly wish to submit that, once the client logs-in to his online trading application, he can view all the positions executed in his account in all the segments altogether. Please find the attached screenshot of sample log-in page, where in 'position' tab equity as well as derivative positions can be viewed in one go. Therefore, it is very clear that allegation is completely baseless and afterthought and hence the same is uneatable.
32. That regarding the aforementioned "IBT" facility, it is pertinent to highlight that the Compliance Handbook issued by the NSE specifies that "*the internet trading clients*





*shall trade through internet trading system and only in case of connectivity problems, their orders can entered through back up system (like call and trade facility) after proper identification of the client.*” Therefore, in accordance with the guidelines outlined in the NSE compliance handbook, it is advisable for online (IBT) clients to access their accounts using our online trading application for placing trades.

33. That in accordance with the guidelines outlined in the SEBI mandated "Rights and Obligation to Stock Brokers, Sub-Brokers, and Clients" document, under point 13 of the "Transaction & Settlement" clause explicitly states that, ***“The client shall give any order for buy or sell of a security/derivatives contract in writing or in such form or manner, as may be mutually agreed between the client and the stock broker. The stock broker shall ensure to place orders and execute the trades of the client, only in the Unique Client Code assigned to that client.”*** Therefore, in light of the said clause and as per the mutual understanding between client and our dealer, we have just placed Applicant’s trades on his behalf under his complete knowledge. If we would have disallowed ourselves to place/execute trades on clients’ behalf, he may have filed another complaint against us towards improper service.
34. That in addition to above, the respondent argues that point mentioned in aforesaid SEBI prescribed, “Rights and Obligation” document, in point no 10 under the heading ***Internet & Wireless Technology based Trading Facility Provided By the Stock Broker to Client (All the clauses mentioned in the ‘Rights and Obligations’ document(s) shall be applicable).*** ***“The Client shall not have any claim against the Exchange or the Stock broker on account of any suspension, interruption, non-availability or malfunctioning of the Stock broker’s IBT System or Service or the Exchange’s service or systems or non-execution of his orders due to any link/system failure at the Client/Stock brokers/Exchange end for any reason beyond the control of the stock broker/Exchanges.”*** Therefore, considering this clause the Respondent shall not be responsible to bear such losses incurred due to Applicant’s own trading decision. Therefore, considering the Applicant as ‘Online’ client, his claim shall not be tenable.
35. That SEBI also added the following clause to the “Rights & obligation” document under point 3: ***“The client shall satisfy itself of the capacity of the stock broker to deal in securities and/or deal in derivatives contracts and wishes to execute its orders through the stock broker and the client shall from time to time continue to satisfy itself of such capability of the stock broker before executing orders through the stock broker.”*** Therefore, it makes clear that the Respondent is not entitled/liable to bear the losses of the Applicant, as at the time of inception of his account, the Applicant read and acknowledged the “Rights and Obligation” document. Please refer the below snapshot of acknowledgement copy from the Applicant’s KYC document (KYC page no.15 already submitted in our earlier submissions annexed as Annexure A) for your kind reference, wherein the Respondent himself has agreed and duly signed that ***“I/We further confirm having read and understood the contents of the ‘Rights and Obligations’ document(s) and ‘Risk Disclosure Document’. I/We do hereby agree to be bound by such provisions as outlined in these documents. I/We have also been informed that the standard set of documents has been displayed for Information on stock broker’s designated website, if any.***



36. That it may be noted that client himself admitted in this statement of case in para number 5 that ***“I do admit and in good faith I had consented for these transactions with the understanding that the investor was required to give consent for such transactions”*** which is clear evident to substantiate our stand that client was aware and all the transaction are executed in his account under his complete knowledge.
37. That the Applicant had ample opportunity to stop his losses just after getting SMS, ECN, ledger statements etc. on his registered contact details with us, he could have stopped further transactions post receipt of such confirmations. Nevertheless, he chose to remain silent as he had also made profit during the alleged period.
38. That it is a settled rule in every communication system that, after receiving the communication, if one does not react against the communicated matter, it is always taken as sanctioned one or consented one. It is on such lines that a time immemorial saying this has matured that ***“मौन स्वीकर लक्षणम्”***. Every action which is not acceptable, necessarily requires reaction otherwise this itself amounts to acceptance or consent for the said action. Therefore, considering the Applicant’s acceptance on all the trade confirmations without raising any concern, which itself proves that he was very well aware about the trades and transaction of his account.
39. That with respect to Applicant’s allegation regarding pledging of shares without his consent, in this regard we hereby humbly wish to state that, the one who intends to pledge his shares, do provide his consent for respective stocks and quantity by approving it by entering the OTP received on his respective registered mobile number directly from CDSL. Even, in this case, the Applicant himself approved and selected respective stocks and quantity for pledging from his Dmat account through entering the OTP from his own registered mobile number. Therefore, Applicant’s allegation for unaware of pledged shares is completely baseless.
40. That the documents such as KYC, rights & obligation of stock broker & client, Risk disclosure documents (RDD) guidance notes detailing do’s and don’ts for trading policies and procedures and tariff sheet as brokerage agreed upon etc. were supplied to applicant. Applicant had given mandate letter to the respondent for receiving ECN and other report in electronic form through which trade confirmation were made available to applicant on a regular basis. As such on these basis it is said from respondent that the losses which applicant suffered was due to his own trading decision and negligence. If the applicant was having any concern he could have approached to the respondent at any time, as standard detailing notes of do's and don'ts were also known to applicant.
41. That considering all the above, the awareness of the Applicant has to be understood and also considered all the trade confirmation which was provided to the Applicant during his alleged period and please understand such client’s approach, strategy, intention of recovering losses from trading member which was caused due to his own negligence and market volatility. He is making an afterthought complaint as, it is merely based on surmises and fancies and not backed by any concrete evidence and requests you to refrain from maligning our goodwill any further. The loss suffered by the Applicant in the aforesaid trading account is due to his own trading decisions and cannot be passed on the Trading member.
42. That in view of the above the respondent submits that, they as a broker are in the capacity as market intermediary have just executed the orders on client’s behalf with his consent in the exchange provided system in his unique client code allotted to him.

We have never indulged in any kind of any manipulative, fraudulent or deceptive transactions or schemes or spread rumors with a view to distorting market equilibrium or making personal gains.

43. That therefore, the tribunal may dismiss the claims of the applicant.

#### **Part-IV- The point**

Since this application for arbitration was filed after initial conciliation proceedings, and the conciliation proceedings were not provided by the case managers taking protection from section 75 of the Arbitration and Conciliation, Act, 1996, no comments are offered by this tribunal on the statements by either by the applicant or by the respondent on the conciliation proceedings of its outcomes. Commenting on the conciliation proceeding is thus outside the authority of this tribunal. With this, I will directly come to the point.

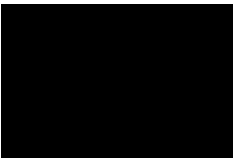
44. Now the point is:

- (a) Whether the respondent is acting on his own without any consent from the applicant and investing money of the applicant at his own will and making losses?
- (b) Whether the applicant is really innocent or wanted to raise his voice only when there were losses?
- (c) Whether any relief can be awarded based on the arguments and documents produced. If so what relief and to whom?

45. To answer 44 (a), the averments made in the written statements of defense, additional inputs, and the arguments during the hearing do not affirm this view completely. To the extent possible the respondent answered the points objections raised by the applicant indirectly if not directly. Whoever reads the statements of defense, and hears the arguments during the hearing do not find any major fault with the respondent on a first reading and first hearing. However, there is a catch. The respondent, in support of his averments, supplied the call recordings, emails, and text messages between the applicant and the respondent. If we look at the dates and dates of investments, and the profits, and losses booked, the cat comes out of the bag.

46. Starting with the first loss claimed by the applicant in his statement of claim Rs. 44,183. The explanation offered by the respondent *'Respondent hereby submit that the Applicant had bought 100 shares of Paytm at Rs. 1117.30 per share on 14<sup>th</sup> January, 2022. These shares were subsequently sold on 14 March, 2022 by the Respondent at Rs. 675.47 per share thereby resulting in a loss of Rs. 44,183. The trade confirmation and intimation messages were duly sent to the Applicant on his registered mobile number i.e. [REDACTED]. Additionally, the respondent had issued and delivered documents to the Applicant including contract notes, ledger statements, and DP transaction cum holding statements, which were duly received by the Applicant via email at his registered email address i.e. [REDACTED].* It looks true and the applicant is making a complaint without a reason until we listen to the conversations of 14 March 2022, and 16<sup>th</sup> September 2022. On 14<sup>th</sup> March 2022, a representative of the respondent calls the applicant and tell- Sir, we are exiting 100 shares of Paytm at 675.47. Ok Sir? The answer from the applicant was 'Theek hai'. The conversation does not clearly convey at what rate the shares were purchased, why were they being sold, and if was there any profit or loss in that trade. 'Just saying Theek has been taken as the permission given to trade at a loss. There was no prior communication by the applicant to sell the shares, at a loss. The applicant innocently asks in another

conversation on 16<sup>th</sup> September, that why was his account so low. Then the respondent representative says 'Paytm shares were booked in loss. The loss transaction information was shared on after enquiry by the applicant after six month of making the trade in loss. Thus, it appears true that the applicant has blindly believed the respondent and whenever any communication made over telephone for any trades he just said 'Theek Hai' and nothing more. But all the 'Theek Hais were after the decision taken by the respondent but not on the instructions of the applicant.

47. Entire call records, more particularly of 14 March 2022, 16 September, 2022, 11 November 2022, 15 November 2022, 17 November 2022 are just some examples where the respondent exhibits his non transparent trading behaviour. The respondent has not acted in accordance with the SEBI circulars under which he was seeking protection. On the other hand almost all the transactions, excepting selling of Mutual funds, there were no prior intimations by the applicant to the respondent to deal with in a particular scrip or stock. The respondent, taken a decision, executed, and informed the applicant. It appears, that the applicant honestly expressing 'The consent was always given in good faith with understanding that the respondent would act without any negligence' appears to be true under the circumstances obtained in the entire trade by the respondent with money of the applicant.
48. This tribunal further observes from the statements of defense and arguments advanced by the respondent that there were no direct answers offered or the complaints were directly defended instead of beating about the bush. The respondent has tried to take colourable protection of rules of Internet Based Trading (IBD). Instead, all the call records for taking post trade 'Theek Hais' from the applicant. For example, when the shares to the tune of Rs.3, 33,464.24 were sold on 14.07.2023 and no permission was obtained for using the cash component as collateral for the derivative trade. The respondent has not commented on the same. Neither did he offer any satisfactory explanation in his arguments, or defense statement, or in additional points.
49. Another example of the respondents, non-transparent, non-responsive behaviour is that the applicant repeatedly asked for breakup of investment of Rs. 10,00,000 (WhatsApp. no: [REDACTED] ) on 20th March 2023 and [REDACTED] dated 28th July 2023 and also on several occasions during regular interactions but the details were never provided in order to cover up the PAYTM losses. No reasonable answers were offered by the respondent. On the other hand, a new representative who spoke to the applicant for the first time on 17<sup>th</sup> November 2022 tried to establish his regional relationships with the applicant and wanted to meet him 'unofficially' see that his losses are wiped out slowly at the rate of Rs.5000 or so. (The conversation was in Hindi).
50. Similarly not plausible answer was offered to the complaint of the applicant that 'The loss booked on account of derivative transactions has been reported as Rs. 2, 28,448.59. That the applicant admits that unknowingly and in good faith he had consented for these transactions with the understanding that the investor was required to give consent for such transactions and more important that the respondent was a reputed company and it would also protect the interest of the investor. The answer offered by the respondent was very general stating that all the transactions were done with the permission of the applicant. But, the permissions were obtained after the transitions and trades were made.
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51. There was no single submission by the respondent that he has discussed the strengths and weaknesses of the trade he was making and possible profit or loss that might emerge out of the trade. Whenever there was a small profit out of the trade he made without the permission of, the respondent immediately informed the applicant with very much jubilation. Never, did he communicate the losses over phone, neither did he inform about the possible loss if he trades. The classic example is of Paytm. He knows that the Paytm was purchased at Rs. 1117.30 and sold at Rs. 675.47. At least he could have informed the applicant the conditions precedent for such a huge loss and what makes him to take such a decision and inform the applicant just that he was selling for that price to obtain a 'Theek Hai'.
52. Thus, this tribunal finds that the respondent has conducted himself without transparency, very callously, unprofessionally, and without any respect to the hard earned money of the investors.
53. Now come point 44 (b) whether the applicant was really innocent or raising his voice only when he made losses. The answer is partly yes and partly no. The applicant appeared really innocent and honest, and he honestly stated in his statement of claims that he gave permission to trades believing that the respondent was transparent and professional. He could have lied on this stating that he has not permitted any of the transactions. In fact, if we hear the call records he has not permitted any transactions before they were made. He just said 'Teekh Hai' after everything was done. Permission to trade should have been before making any trade. If faith is kept in the trading member, the respondent, he should have behaved in such a way that his client, the applicant was not put to loss due to decisions taken by him on behalf of the applicant. Ironically, here the tribunal finds, that the respondent taken decisions on behalf of the respondent very casually and kept him in dark and taking the protection by saying that he has sent in all the statements, and e-mails. When a 'Theek Hai' was taken over telephone why did he not inform the applicant the market volatility and continuous posting of losses and his reasons for his depleting his account until the applicant himself enquired in the month of November 2022. Therefore, the tribunal finds that the applicant was innocent and blindly believed the respondent.
54. Now comes the responsibility of this tribunal to answer point at 44 (c). Whether any relief can be awarded based on the arguments and documents produced. If so what relief and to whom? The tribunal, based on the arguments during the hearing, statement of claims, statements of defense and supporting documents supplied, without any hesitation awards the desired relief to the applicant,
55. Thus, the tribunal directs that respondent to make good for loss of **Rs.2, 77,086.19 (including arbitration charges of Rs. 3186.00)** to the applicant immediately without any further loss of time.
56. The claim of the applicant is thus accepted an award of Rs.2,77,086 as claimed is made. The application thus stands disposed of.

  
Sole Arbitrator

