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सत्यमेव जयते

**INDIA NON JUDICIAL**  
**Government of Gujarat**  
**Certificate of Stamp Duty**

Certificate No. : IN-GJ47288032816024X

Certificate Issued Date : 30-Jan-2025 10:55 AM

Account Reference : CSCACC (GV)/ gjcsceg07/ GJ-SUBIP0519/ GJ-SU

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Description of Document : Article 13 Award

Description : ARBITRAL AWARD

Consideration Price (Rs.) : 0  
(Zero)

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Second Party : [REDACTED]

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Stamp Duty Amount(Rs.) : 300  
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**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-2024-04-109623**

**CORD Case Id: SNSEI0624A0194**

**Between**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Complainant/ Applicant**

**And**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[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 the 22<sup>nd</sup> November 2024 by CORD, in the present matter.

## 2.0 ARBITRAL, PROCEEDINGS:

2.1 The following meetings for Arbitral hearings were held by me.

Date	Venue	Remarks
09/12/2024	Online	Both parties attended the hearing
16/12/2024	Online	Both parties attended the hearing

**2.3** During the arbitration proceedings full and equal opportunities were given to both the Parties to represent their respective case.

## **3.0 Issues raised by the Complainant**

3.1 There are two issues on which the Claim of Non-Payment was made

3.2 The First Issue relates to the NON-PAYMENT of the sale proceeds of the Scrips under Aggressive [REDACTED] (AAI) scheme and [REDACTED] scheme in which the complainant invested

i) HOLDINGS/SCRIPS HELD IN THE [REDACTED] Portfolio as confirmed by [REDACTED] on the [REDACTED] PERFORMANCE METRICS.- ITC, HAL, RHIM, Coal India, TI India and Schaeffler. The sale value of these Scrips as confirmed by [REDACTED] on their [REDACTED]-PERFORMANCE METRICS is Rs.131061.00

ii) HOLDINGS/SCRIPS HELD IN THE [REDACTED] Portfolio as confirmed by [REDACTED] on the BAI PERFORMANCE METRICS – HAL, ITC, TI India and Coal India, The sale value of these Scrips as confirmed by [REDACTED] on their BAI-PERFORMANCE METRICS is Rs.43621.00

The SUM TOTAL of the above TWO SALE VALUES is Rs.174682.00.

The above scrips were sold by [REDACTED] and their SALE VALUES were confirmed by [REDACTED] on the respective AAI and BAI PERFORMANCE METRICS (Final Settlement Statements) – but the same were not paid to the complainant.

3.3 The **SECOND Issue** is in respect of the NON-PAYMENT of the amounts shown as withdrawals under AAI scheme and BAI scheme by [REDACTED] on the respective Portfolios at the time of exiting the schemes ( on 1.3.23) as well as in the respective PERFORMANCE METRICS (Final Settlement Statements )

a) Date-wise Cash withdrawals shown under [REDACTED] Portfolio.

i) 06/02/23 -----Rs.210000.00

ii)15/02/23 -----Rs. 80000.00

iii)22/02/23 -----Rs 758.7

Sub-total a) -----Rs.290758.71

b) Date-wise cash withdrawals shown under [REDACTED] Portfolio

i)15/02/23 -----Rs.190000.00

ii)22/02/23 ----- Rs. 6826.29

Sub-total b) ----- Rs.196826.29

**Grand Total of a)+b)----- Rs.487584.00**

However, the above amounts have not been credited by [REDACTED] in the BROKING ACCOUNT during Feb'23 and till date.

#### **4.0 Response of the Respondent to the issues raised by the Complainant:**

**4.1** The claimant executed number of buy / sale transactions including the disputed transactions referred by him on regular basis and for all such buy / sale transactions, they have issued ECNs

(contract notes) as stipulated under the SEBI Regulations. The cash pay in / pay outs were done for all the transactions and nothing is due from them to the claimant.

**4.2** All the shares referred by the Claimant and shown under two schemes [REDACTED] and [REDACTED] were sold by the claimant himself on different dates and the claimant held NIL quantity of shares at the time of his exit from the schemes. Required ECNs were issued reflecting the sale of shares on various dates.

**4.3** As regards the sale amount of shares sold, the same were credited to the claimant's account on the respective pay-out dates. As and when the ledger account of the claimant showed a credit balance, the funds were transferred to the claimant's bank account through online transfer.

**4.4** For all transactions of sale of shares, Copies of ECNs, Demat ledger statements as well as the cash payout details credited to the ledger account of the claimant were submitted as proof in support of their statements.

## **5.0 Observation of Arbitrator**

**5.1** It is seen that Claimant's claim is basically arising out of the Portfolio statement given by the Respondent and not out of any record of actual transactions. The dispute is on account of investment in stock market transactions. All the trades are done on the BSE /NSE platforms and the same are recorded and communicated to the investors by the Dealers /Brokers through individual Contract Notes and the same are reflected in the respective Demat account and the Ledger account and Bank accounts of the investor. There cannot be any transactions which do not reflect in the contract note, demat account and the ledger /bank accounts. The Claimant has not submitted any of these records nor referred to any entries in these records to substantiate his claim.

**5.2** During the meeting, the Claimant stated that he has never looked into his demat account as he had not been receiving copy of the same from complainant nor he verified the contract notes. His entire arguments have been based on the position shown by the Respondent in their Portfolio analysis statement as well as emails. Any claim from a person arising out of and solely depending on communications from the other party and not out of his own records / actual transactions can

never be taken as justified claim. The Claimant has failed to substantiate and prove his claim.

5.3 During the hearing, the Claimant agreed that he will not press for his first claim of Rs 174682 relating to value of shares sold as he has not verified the demat ledger and the relevant contract notes.

5.4 However, the claimant argued that he had made several requests for cash withdrawals from the schemes as the scheme terms allow for withdrawals. The same has been shown in the Portfolio Metrics statements as 'Withdrawals' but he did not receive the amount in his bank account till date and hence the same is his claim for the present. Again, the Claimant has relied on the Performance Metrics statement and 2 emails dt. 22.2.23 (for two different schemes) and email dt. 16.8.23, issued by the Respondent to justify his claim. But a reading of the email contents clearly states that the request for withdrawal has been fulfilled and scrips were carefully selected and sold. It is clear that withdrawals have been effected not in the form of cash withdrawals but withdrawal of shares from the scheme's portfolio holding and selling them. As regards the sale of shares, the sale proceeds of the same getting credited to his ledger account can be verified through entries in ECN, Demat ledger and Ledger / Bank account. Claimant's considering the entry shown in the Portfolio Metrics scheme as "withdrawals" meaning as Cash withdrawals and not as equity sales is a clear misunderstanding and not correct.

5.5 The Claimant has not shown any of his own records nor given any details of transactions and has based all his arguments only on the contents of Performance Metrics Statement and Respondent's emails relating thereto. Performance metrics statement is not the basic document which records and captures the stock market transactions but only an informative statement giving statistical analysis. Hence the claim by the claimant is totally baseless and not substantiated.

5.6 As regards the Portfolio Metrics Statement, it's a creation of the Respondent and has to be owned up by them as to its contents. However, I am of the view that there are lots of deficiencies in such statements prepared and shared with the investors which could lead to miscommunications and misunderstandings ultimately giving rise to disputes – which can well be avoided if such statements issued by Respondent are more clear and complete.

For eg: some of the deficiencies noted are;

- a) The Portfolio Metrics statement does not show the date on which all the information given therein is relevant.
- b) A row shows WITHDRAWALS – doesn't specify if it refers to cash/fund withdrawals or withdrawal on account of sale of securities.
- c) It has been confirmed by the Respondent that this statement is made available only to the Investor / client in the frontend, but the Respondent itself doesn't have any copy of the same and are not in a position to explain the contents in case any queries are raised by client or anyone at a later stage
- d) The statement shows Exit date as 1.3.2023 for both the schemes and shows Portfolio value as Rs 131061 and Rs 43621. It doesn't mention the date on which above portfolio still existed.

5.7 The Respondent in his defence statement showed the details of the portfolio in terms of different shares and the quantities and also referred to the entries in Demat ledger indicating that he shares have been sold out by the claimant and sale value received by him. But there are some inconsistencies found in the reply.

For eg. For portfolio value of Rs 131061 in the first scheme [REDACTED] shares of 6 different companies along with quantities were mentioned. One of them is 65 shares of ITC. Thereafter the entries in demat ledger were given showing that 65 nos of ITC shares were sold out on 31.10.22 (part of total sold qty of 107 shares). In the Portfolio Metrics statement the Exist date is shown as 1.3.23 and the Portfolio value is shown as Rs 131061 – inferring that the socks contained in the portfolio still remained existing as on 1.3.23. This contradicts with data as per Demat ledger entries which show that ITC shares have been sold out much earlier on 31.10.22 itself. If ITC shares have been sold out on 31.10.22, how they are shown as part of portfolio as on exit date of 1.3.23.

Likewise, contradictions exist in all other shares – demat ledge entries compared to information given under Performance Metrics statement.

5.8 As stated earlier while its only the ECNs, Demat ledger entries and Bank account entries which are the only records to be relied upon to know the share trading transactions and not any statistical reports given, still there's an obligation on Dealer /service providers like the Respondent who provide statistical and analytical statements like the Performance Metrics in this case to ensure the information provided therein is complete, and reflect exactly as per the transactions carried out and not in contradiction with the actual transactions data. Such statements should add value in understanding of the investor clients and not create confusion and leading into disputes.

5.9 Respondent should cover up all the deficiencies (as pointed above) and give complete, clear and factually correct information in such reports.

5.10 In the present case, the actual dispute raised by the Claimant is basically arising out of the information contained in the Performance Metrics statement – both the aspects of non-receipt of sale proceeds of Portfolio value of Rs. 131061 and Rs. Rs 43621 as well as non-receipt of withdrawal amounts of Rs 417854 and Rs 196826. Respondent should focus on these entries and information shown in the statements and provide details to the Claimant for his clear understanding.

5.11 After receipt of such details from the Respondent and cross verification with the primary documents, if the Claimant still has any dispute he may prefer a separate claim with support of factual data.

## **6.0 AWARD**

- 1. The Claim of the Claimant is dismissed as its not substantiated with primary records like Demat ledger, ECNs and Bank entries but relies only on the statistical and analytical report given by the Respondent which cannot be considered as actual losses.**
- 2. Respondent to analyse its own report which the Claimant is relying upon and provide full breakup details of Initial Investment, Withdrawals, Portfolio value and also the date on which this report holds good – only for clarity and a better understanding of the claimant and not for any claim settlement.**



**3. Both parties shall bear their own costs and expenses**

**Arbitrator** [REDACTED]

[REDACTED]

[REDACTED]