

BEFORE THE HON'BLE SOLE ARBITRAL TRIBUNAL
BENGALURU
In the matter of ARBITRATION APPLICATION NO. NSE-SB-2024-04-706715
BETWEEN

[REDACTED]

APPLICANT

[REDACTED]

RESPONDENT

Hearing proceedings.

Hearing was held at 3PM on 3rd September 2024 through VC as scheduled after due intimation to the parties. Applicant presented her case personally and with the assistance of [REDACTED] whereas Respondent was represented by [REDACTED] attached to the Legal Department of the Respondent. Hearing concluded by 4 Pm and the passing of award was deferred.

[REDACTED]

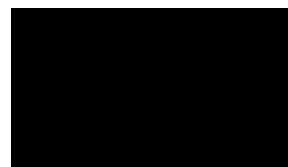
FINAL AWARD

STATEMENT OF CLAIM

1. Applicant is a client of the Respondent, registered Trading Member of NSE. The applicant opened a demat and trading account with the Respondent. Initially the Applicant was trading in Cash Segment as her trading preference and subsequently on 30-Nov-2022, the Applicant activated the Currency, Derivative and Commodity Segments as additional trading preference.
2. Since the Applicant was lacking in knowledge in option trading, she opted the advisory services of the Respondent for doing trades with the expectation of professional guidance and responsible risk management. But the Respondent engaged in Aggressive Trading Strategy. Frequent transactions were carried out negligently and maliciously only to churn profit.
3. Respondent also charged excessive brokerage charges which further exacerbated her financial situation. Out of the infused funds of Rs 50000/- in the account, a total amount of Rs.43,188/- was debited from the Applicant's account towards brokerage services. Absence of proper risk management measures was also alarming. This reckless approach resulted in substantial losses, leaving the Applicant's account balance in a negative state. The losses incurred are a direct result of the advisor's actions. Applicant holds the Respondent for rectifying this situation promptly and seeks for full Refund of her Capital.

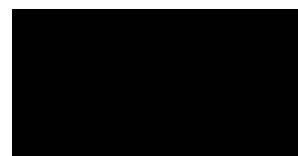
STATEMENT OF DEFENCE OF THE RESPONDENT

1. Denying the very basis and entitlement of the claims and demands made by the Applicant and the liability for payment of the claim amount, the Respondent states that the present claim is nothing but misuse and abuse of the process of law. The Applicant had voluntarily opened her account by executing online eKYC account opening document and all the mandatory and voluntary documents as per prescribed rules, regulations, byelaws, etc., framed by SEBI and Exchanges. Initially the Applicant had opted for Cash Segment as her trading preference and thereafter, on 30th Nov 2022, the Applicant voluntarily activated the Currency, Derivative and Commodity Segments as additional trading preference in her account through online login by



using her login credentials. Fresh Welcome Letter was generated and was emailed to the Applicant, wherein detailed segment wise brokerage charges were informed.

2. Respondent was regularly sending post trade confirmations to the Applicant at her registered e-mail id and through SMS as per the regulatory requirement whenever trades were executed. Moreover, the Applicant was also receiving SMS regarding her executed trades and/or movement of shares from her DMAT Account, directly from Depository and/or Exchange at her registered mobile number. The Applicant was accessing and monitoring her trading and DEMAT account by visiting Website/App based online application of the Respondent, through online login regularly, through her secure Login Id and password. She never raised any dispute.
3. The Applicant has raised the dispute regarding FNO trades executed on 14-Feb and 20-Feb 2024. From EXHIBIT-7 audio-clip of pre-call recordings of disputed trades it is evident that all the four orders of the said trading dates were placed only after obtaining pre-trade confirmations and clear instruction on call from the Applicant. On reviewing the pre-order audio recording, it is clear that the Applicant was monitoring the live market movement during conversation with the Dealer of the Respondent and full understanding of FNO scripts, price tag, Stop Loss, etc., the Applicant had given instruction to execute trades. The way call Recording would prove that it is proved beyond doubt that the trades were done as per the instruction of the Applicant.
4. Allegation of excess levy of brokerage is denied as false. The Applicant was informed of all the necessary brokerage details applicable to her account. In the fresh Welcome Letter (Exhibit- 3 of SOD) issued to the Applicant, details of segment activation and respective brokerage charges were clearly mentioned. It is further clear from the audio recording and WhatsApp chat as relied by the Applicant. In addition to the above, the Applicant was also accessing and monitoring her trading account through online login mobile application. The Applicant was receiving contract notes which contains the details of brokerage charges. The Respondent has never violated and charged excess brokerage than the permissible limit and has acted well within the guidelines of the SEBI and Exchanges. A copy of NSE Circular ref no. 57/2022 dated 12-Aug-2022 is relied on and annexed here with as **EXHIBIT – 9**
5. The Applicant has realized profit of Rs. 2239.08/- in Cash Segment. So, the Applicant is accepting the profit and only choose to dispute the FNO segment loss with an intention to disown her market loss. The Applicant has filed this present SOC with ulterior motive of



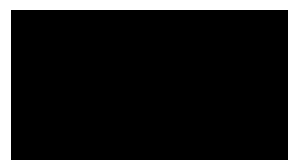
making good the losses realized by her during the trading period. Therefore, the Respondent seeks to dismiss the Claim with compensatory cost.

POINTS

1. Whether the Respondent engaged in unfair trade practice by pushing the Applicant to carry out aggressive and reckless trading causing loss to the Applicant?
2. Whether the Respondent collected any excessive charges for brokerage services?
3. Liability for the claim amount.

POINTS 1 and 2:

1. Trade relationship is not in dispute. Dispute is focused on the FNO trades executed on 14-Feb and 20th Feb 2024. The way Call Recording and post trade communication documents on record would prove that that the trades were done as per the instructions of the Applicant and that she had timely knowledge of the trades carried out in her account. In Annexure IV Risk disclosure document, it is clearly mentioned about the risks involved in undertaking the transactions and that the Client shall be solely responsible for the consequences. It is further made clear that there can be no guarantee of profits or no exception from losses while executing orders for purchase and/or sale of a security or derivative being traded on NSE/BSE. It is also in evidence that initial transactions ended in marginal profits. A client cannot shower the blame on the broker for any wrong advice on suffering loss. There is also dearth of evidence to infer any mala-fides on the part of the Respondent in advising the Client if any given. Stock market is a tree which at times sprouts and yet other times perishes. So, the complaint that the Respondent engaged in unfair trade practices cannot stand for a moment.
2. Answering the issue of excess levy of brokerage; as per the Rights and Obligations of stockbrokers, sub-brokers and clients prescribed by SEBI and Stock Exchanges and NSE trading Regulation, the Client is obliged to pay the stockbroker brokerage and statutory levies specified from time to time. The Applicant was aware of all the necessary brokerage details applicable to her account could be seen from the Welcome Letter issued to the Applicant at the time of opening the account and attached as Exhibit- 3 to the statement of defense. of SOD), the audio recording, Ext-8 Contract note and Ext-9 clarification letter issued by NSE regarding the applicable brokerage charges. In addition to above, the Applicant was also accessing and monitoring her trading account through online login mobile application and so can very easily reviewed the detailed brokerage chart applicable to her. There is total dearth of evidence to



prove that the stockbroker has charged brokerage more than the maximum brokerage permissible as per the rules, regulations and byelaws of the relevant stock exchanges and rules and regulations of SEBI. So, allegation of excess levy of brokerage could not also stand to scrutiny.

3. Shortly, there is no evidence that the Respondent traded in securities in a fraudulent manner or indulged in any unfair trade practices or that the Respondent furnished any false or misleading information or advice inducing the Applicant to do trading which enabled the Respondent to gain thereby.

Point No 3:

1. In view of the findings entered on Points 1 and 2, the claim is only to be rejected.

AWARD

A NIL Award is passed rejecting the Claim of the Applicant. The award will be prepared in triplicate, one original each shall be sent to the parties to the dispute, and the stamped award will be retained In the Exchange. Costs will be abided by the NSE Rules and Regulations.

Date – September 05, 2024



Sole Arbitrator

