



IN-GJ12211796954895W



सत्यमेव जयते

INDIA NON JUDICIAL Government of Gujarat

Certificate of Stamp Duty

Certificate No. : IN-GJ12211796954895W

Certificate Issued Date : 05-Dec-2024 02:28 PM

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

Unique Doc. Reference : SUBIN-GJGJCSCEG0737927944597184W

Purchased by : [REDACTED]

Description of Document : Article 5(h) Agreement (not otherwise provided for)

Description : ARBITRAL AWARD

Consideration Price (Rs.) : 0
(Zero)

First Party : [REDACTED]

Second Party : [REDACTED]

Stamp Duty Paid By : [REDACTED]

Stamp Duty Amount(Rs.) : 300
(Three Hundred only)

ARBITRAL AWARD

MATTER NO:
NSE-SB-2024-08-745492



0021375205

Statutory Alert:

1. The authenticity of this Stamp certificate should be verified at 'www.shcilestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority.

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-2024-08-745492

BETWEEN

[REDACTED]

Address: [REDACTED]

[REDACTED]

[REDACTED]

Phone: [REDACTED]

Email: [REDACTED]

Complainant/ Applicant

And

[REDACTED]

Address: [REDACTED]

[REDACTED]

[REDACTED]

Phone: [REDACTED]

Email: [REDACTED]

Respondent

For Claimant:

1. [REDACTED] Senior Manager Legal
2. [REDACTED] Manager Legal

For Respondent:

1. [REDACTED]
2. [REDACTED]

[REDACTED]

INTRODUCTION

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 (“MIIT”) 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 06th October 2024 by CORD, in the present matter.

FACTS OF THE CASE

The Applicant is a Registered Stock Broker both in National Stock Exchange and Bombay Stock Exchange extending various services related to stock market. Respondent opened DMAT AND Trading Account with the Applicant complying with all necessary formalities and conducting trades in the normal course. The Respondent alleges he was induced to do Trading in Futures and Options with a promise of high profits and without any risks. The Respondent expressed his ignorance and apprehension of trading in the F&O segment. He was assured high profits and no risk. Admittedly, the trades in that segment were conducted based on oral consent. Heavy losses were incurred by the Respondent in the F&O TRADES on 3/6/24. The Loss was to the extent of Rs 1799626. The Brokerage charged was Rs 11500. The shortfall/loss arising out of the Transaction was recovered by disposing off the shares of the



respondent's demat account. The Respondent filed a complaint to SEBI complaining of a loss of Rs 18000 due to unauthorized trades conducted on 3/06/2024. The matter has been referred to conciliation. The conciliator after going through the materials and presentations, passed an order against the Applicant, for Rs17,99,628 against a claim of R18000. Aggrieved by the order, the Applicant preferred an Appeal through the Present Arbitration.

PRELIMINARY HEARING

A preliminary hearing was held on 22nd October. After going through the material presented and presentations of both the parties, the Legal Department official representing the Appellant was requested to discuss the possibility of giving any relief of brokerage of Rs 11500 charged. The case has been adjourned for 2 days to get a reply from the Applicant. On the next hearing day, the Representative of Applicant conveyed their willingness to waive 50 percent of the brokerage charged. The Respondent was not agreeable.

ADDITIONAL ARGUMENTS BY THE APPLICANT

1. The Respondent is a prudent investor who can understand the intricacies of trading. It is difficult to believe that the Respondent, being a prudent and well-educated person, could claim ignorance and ignore trade updates without knowing the consequences.
2. The Respondent requested the activation of the F&O segment on 06.05.24 to carry out F&O trades in his account.
3. The Applicant submits that the Conciliator ignored the significant fact that the Respondent, from filing the complaint till date, never disputed the trades being executed in his account, even though he admitted in the complaint letter that he said, "Can we do small trading?"
4. The Conciliator awarded the admissible claim of Rs 17,99,626 for unauthorized trades, ignoring the fact that the Applicant produced consent call recordings of the Respondent for placing the trades in his account. This shows that the trades were not placed without the Respondent's knowledge and cannot be termed as unauthorized.



5. SEBI Circular on Prevention of Unauthorized Trading by Stock Brokers states that brokers shall execute trades only after keeping evidence of the client placing such order, which could be in various forms, including telephone recordings.
6. In the present case, the Respondent gave oral consent to place the trades, and the trades were placed with the Respondent's knowledge. The Respondent never disputed the voice recordings for consent.
7. All trades in the Respondent's account were placed in a similar pattern, but as the Respondent suffered a loss in the F&O trade dated 03rd June 2024, he is disputing the loss even after knowing that the trades were executed with his consent.
8. The Respondent is a qualified and prudent trader and is fully aware of the mechanism of trading and the risks involved.
9. The Applicant successfully substantiated that all trades in the Respondent's account were placed upon the Respondent's instruction, but the Conciliator ignored this fact. The Conciliator ignored the fact that the Respondent himself gave consent for the trade and simply disputed the trades as unauthorized after incurring a loss.
10. The Respondent made contradictory statements, claiming ignorance of F&O trading on one hand and trusting the Applicant to carry out trades in his account as per his instructions on the other.
11. The Conciliator ought to have considered the call recordings for the trade date 03.06.24, which clearly indicate the Respondent's awareness of the trades executed in his account and his confirmation.
12. The Respondent filed a police complaint for the same issue and recovery of the amount, which is sub judice before the concerned officer.
13. The Conciliator considered that the Respondent was under the influence of a third person, a former employee of the [REDACTED]. Moreover, the Respondent's conduct suggests a private arrangement with the third person to recover money from the [REDACTED].

14. The Applicant argues that the Conciliator exceeded his scope and power by passing the claim award.

15. The Applicant craves leave to add, alter, or amend any of the foregoing grounds and paragraphs. The Applicant craves to refer to and rely upon the list of authorities and entire compilations as and when necessary and produced. The Applicant received the Conciliation Award on 27.08.24 from CORD, and therefore, the present application is filed within the limitation period.

RESPONDENT'S CONTENTIONS

The Respondent and his representative stated that they were not willing to conduct any trades under the F&O segment due to a lack of knowledge. They further alleged that there were many complaints against [REDACTED], a franchisee of the Complainant. A screenshot was presented showing an offer of Rs 3 lakhs from an employee of [REDACTED] who had allegedly induced and conducted F&O trades on behalf of the Respondent. The Respondent borrowed money from others by paying high interest to settle the balance due even after selling shares. A complaint was also lodged with the local police station.

CONCLUSIONS

After going through the material presented and averments made by both parties, the following conclusions were drawn:

The conciliation order comprehensively addressed all presented issues and was well-reasoned. The Respondent clearly expressed apprehension about trading in Futures & Options but was persistently pursued with assurances of high returns and no risk. With continuous pursuit and false assurances, the Respondent unwillingly conceded to small trades. In the first trades on 3rd June, the Applicant's representatives aggressively pursued, resulting in a net loss of about Rs 180,000. The brokerage itself accounted for Rs 11,500, indicating mala fide intentions. The loss caused by these unauthorized trades was promptly recovered by liquidating the Respondent's holdings. The Respondent had to resort to borrowing from private lenders to settle the remaining dues. The Respondent filed a complaint with the local police seeking action against the Applicant company.



The Respondent further stated that he was approached to compromise with an offer of Rs 3 lakhs by the dealer [REDACTED], who had executed the trades resulting in the loss. The owner of the Applicant company also offered a payment of Rs 3 lakhs. A WhatsApp chat was presented as an exhibit. There were several calls from the Applicant company's employees pressurizing for a compromise. The Respondent and his companion submitted that many complaints against the Applicant company were made in Unjha. The call records shown as exhibits were selective and did not conclusively prove concurrence for the disputed trades. The Applicant company itself indicated in their complaint that the disputed trades were conducted on oral instructions. The overall conduct of the company clearly indicates that they resorted to unfair and unauthorized trades to boost brokerage income. For the reasons discussed above, the appeal made by the Applicant company does not merit any consideration and is disallowed. A penalty of Rs 10,000 is awarded to the Respondent in addition to the amount Rs. 17,99,626 /-awarded by the conciliator.

Place: [REDACTED]

[REDACTED] (Sole Arbitrator)

[REDACTED]