

भारतीय गैर न्यायिक

एक सौ रुपये

रु. 100



सत्यमेव जयते

Rs. 100

ONE
HUNDRED RUPEES

भारत INDIA
INDIA NON JUDICIAL

गुजरात गुजरात GUJARAT

AM 650863

नंबर: 1955 रु.
तारीख: 22 जून 2015
नाम: W. S. K. ...
उसे: ...
डेकाशुं: ...
दिनेशकुमार बंसीलाल पटेल
ला. नं. अ.स./बी./९१/१८८७
अमदावाह सीटी सीवील कोर्टना सफांटी
स्टेम्प वेंनारनी सडी: M.S.E.I.

Metropolitan Stock Exchange of India Limited (MSEI)
[Formerly known as MCX Stock Exchange Limited]

Before the Panel of Arbitrators

Comprising of Mr. Ashwin Amrutlal Shah, (Presiding Arbitrator) &
Mr. Rasesh Hashmukhbhai Parikh (Arbitrator) &
Mr. Dharmendra T. Thelariya (Arbitrator)

In the matter of Arbitration under Bye-laws, Rules and Regulations
of Metropolitan Stock Exchange of India Limited

Arbitration Matter No. MSI/APP/AMD-01/2015

BETWEEN

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Monarch Project and Finmarkets Ltd. **Appellant**
(Trading Member)
AND
Kinjal J. Doshi ... **Respondent**
(Constituent)

(Per: Mr Rasesh Parikh)


(1.00 Appearance)

For the Applicant: Mr. Mayukh Pandya,
Authorized representative of the Trading
Member.

For the Respondent: Mr. Jayesh Doshi,
Authorized representative of the
constituent.

2.00 Arbitration Reference/Hearing

- 2.01 Present is an Appellate Application filed by the Appellant, Original Respondent against the Respondent – Original Applicant challenging the Award dated 12.02.2015 passed by Learned Sole Arbitrator.
- 2.02 The present matter was initiated by issue of letter dated 24.04.2015 by the Arbitration Department of Metropolitan Stock Exchange of India Limited (MSEI) [*Formerly known as MCX Stock Exchange Limited*] upon the receipt of Appellate Application from the Appellant and upon selection of the three members Panel of Arbitrators as per MSEI regulation.
- 2.03 The notice of hearing was issued intimating both parties about the appointment of three arbitrators by MSEI and the hearing was scheduled on 03.06.2015 at Ahmedabad office of MSEI.
- 2.04 On 03.06.2015, the Appellant appeared through Mr. Mayukh Pandya, and Respondent was represented by her father, Mr. Jayesh Doshi. Both the parties were heard at length and matter was posted for judgment.



Tribunal to come to conclusion about falsity of Award on prima-facie basis.

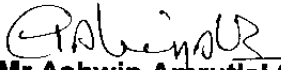
Award


The Appellate Application is dismissed.

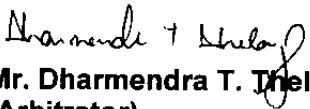
The cost of Appellate Application is to be borne by the Appellant.

No order as to any other cost.

The award is signed and stamped in three originals. The MSEI to retain one stamped original and forward one stamped original each to Monarch Project and Finmarkets Limited and Constituent Ms. Kinjal Doshi.


Mr. Ashwin Amrutlal Shah,
(Presiding Arbitrator)


Mr. Rasesh Hashmukhbhai Parikh
(Arbitrator)


Mr. Dharmendra T. Thelariya
(Arbitrator)

Ahmedabad
Dated : 24th June, 2015.

3.00 Preliminary Remarks

- 3.01 Vide impugned Award, the Learned Sole Arbitrator was pleased to reject claim of Respondent herein and also rejected the counter claim of the Appellant. The Respondent has not challenged the impugned Award and Appellant – Original Respondent has laid challenge in this appeal qua rejection of counter claim. Thus, the scope of present appeal is to scrutinize award qua rejection of counter claim.
- 3.02 The decision leading to the present Judgment is arrived at after perusal of documents, the award of the Sole Arbitrator and after consideration of all written as well as oral submissions made by both the parties. The Panel of Arbitrators discussed and deliberated amongst themselves before arriving at decision on appellate application of the Applicant.

4.00 Contentions of Applicant and Respondent

- 4.01 The Appellant has read out memo of appeal as the contentions in support of present appeal. It is painful to record that in spite of repeated query by the Tribunal about specific ground of challenge and foundation for assailing award, the authorized representative of the Appellant has chosen to read out appeal memo. In view of this the Tribunal has no choice but to rely on memo of appeal.
- 4.02 The perusal of the memo of appeal records conclusion of learned Sole Arbitrator as “an afterthought without any serious efforts to recover the dues from the Applicant”. Even in memo of appeal, bald averments about alleged recovery made by Appellant is mentioned but no details about the same are narrated except letter dated 22.10.2014 written by Appellant.
- 4.03 It is germane to note that there is no evidence on record about service of this letter on Respondent and in any view of the matter, said letter is after complaint filed by Respondent before IGRC. Therefore, Appellant fails to prove that there was any effort to recover money from Respondent and fails to assail finding of Sole Arbitrator that the counter claim is afterthought.
- 4.04 The Respondent has reiterated its stand before learned Sole Arbitrator and denied the alleged efforts of Appellant for recovering the amount.

5. Reasoning

- 5.01 In view of Appellant making out case to assail the Award on cogent ground, the Tribunal is not inclined to interfere in the Award passed by Learned Sole Arbitrator. The Appellant has failed to discharge onus upon it as far as appeal is concerned as it has not inspired

