

भारतीय गैर न्यायिक

एक सौ रुपये

रु. 100



सत्यमेव जयते

Rs. 100

ONE
HUNDRED RUPEES

भारत INDIA
INDIA NON JUDICIAL

गुजरात गुजरात GUJARAT

AM 650865

नंबर: 7000 अ.
तारीख: 22/06/2015
नाम: W.L. J.M. J.L. S.K. J.M. S.R. S.K. S.L.
उत्प्रे: W.L. J.M. J.L. S.K. J.M. S.R. S.K. S.L.
डेकांशु: W.L. J.M. J.L. S.K. J.M. S.R. S.K. S.L.
दिनेशकुमार बंशीलाल पटेल
ला. नं. असे./भी./७१/१८८७
अमदावाद सीटी सीवील कोर्टना सफ़ेदी
स्टेथ लंगारनी सही: W.L. J.M. J.L. S.K. J.M. S.R. S.K. S.L.

22 JUN 2015

Before the Appellate Bench of Metropolitan Stock Exchange of India Ltd, Ahmedabad
Bench

(Formerly known as MCX Stock Exchange Ltd.)
Appeal AM No. APP/AMD-02/2015
In Arbitration Reference A.M.No. ARB/AMD-02/2014

Between

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Monarch Project and Finmarkets Limited
Monarch House,
Opp. Ishwar Bhuvan,
Nr. Commerce Six Roads,
Navrangpura,
Ahmedabad - 380009

**...Appellant
(Original Respondent)**

AND

Mr. Jayesh N. Doshi
304, Vasundhara , Flat no. 12,
Jain Society, Nr. Pritam Nagar Akhada,
Ellisbridge,
Ahmedabad - 380006

**...Respondent
(Original Applicant)**

Before the Appellate Bench:

Mr. Anil N. Shah
Mr. Rasesh H. Parikh
Mr. Ashwin A. Shah

STATUS OF THE PARTIES:

This is an appeal referred to us for adjudication under the Rules, Bye-laws and Regulations of the of Metropolitan Stock Exchange of India Ltd, Ahmedabad Bench (formerly known as MCX Stock Exchange Ltd.) against award dated 24.02.2015 in Arbitration Reference No. ARB/AMD-02/2014.

Being aggrieved by the award dated 24.02.2015 of the Sole Ld. Arbitrator in Arbitration Reference No. ARB/AMD-02/2014; the Appellant has preferred the present appeal.



The award against which the present appeal has been preferred was pronounced as:

1. *The Applicant claim of Rs. 1,25,000/- with interest is rejected.*
2. *The counter claim of Respondent is rejected.*
3. *No order as to cost.*

APPEAL OF THE APPELLANT:

The grounds of appeal in short, are as under:

- a) That the Appellant is aggrieved by the Ld. Sole Arbitrator's impugned award dated 24.02.2015 in which the counter claim of the Appellant for Rs. 1,22,227.65 (Rupees One Lac Twenty Two Thousand Two Hundred Twenty Seven and Sixty Five Paise Only) was rejected.
- b) That the Ld. Sole Arbitrator did not admit the Appellant's counter claim and that no specific reason has been given for rejection of the claim. The Appellant claims that they had constantly followed up with the Respondent for the recovery of dues. The Appellant

Anil


further states that they also wrote a letter to the Respondent on 20.10.2014 and the same was mentioned in the order by Ld. Sole Arbitrator.

- c) That the Appellant was asked for the reasons for writing off the amount of Rs. 1,22,227.65 (Rupees One Lac Twenty Two Thousand Two Hundred Twenty Seven and Sixty Five Paise Only) by the Ld. Sole Arbitrator at the time of hearing on 02.12.2014 and the same had been clarified the same was written off on account of merger of the Appellant's company with Networth Stock Broking Limited vide petition no. 575/2012 filed before the Hon'ble Bombay High Court. That a copy of the same was filed by the Appellant before the Ld. Sole Arbitrator on 18.12.2014.
- d) The Appellant claims that they are partly aggrieved by the impugned award passed by the Ld. Sole Arbitrator wherein Appellant's counter claim was rejected.

PRAYER OF THE APPELLANT:

The Appellant has prayed :

- a) *To pass the order in the favour of the Appellant of Rs.1,22,227.65/- (Rupees One Lac Twenty Two Thousand Two Hundred Twenty Seven and Sixty Five Paise Only).*
- b) *Interest on the above amount at the market rate.*
- c) *Any other relief may deem fit by the Hon'ble Appellate Tribunal.*

REPLY OF THE RESPONDENT:

The Respondent has chosen not to file any reply.

HEARING:

The hearing in the matter was held on 18.06.2015. The Appellant was represented by its authorized representative, Mr. Mayukh Pandya and the Respondent was present in person.

FINDING AND CONCLUSION:

We have considered the appeal with utmost care and have gone through the relevant papers and proceedings and also taken into account the arguments of the parties.

We do not find any merit in the appeal. The pleading of the Appellant that the Ld. Sole Arbitrator had not admitted the Appellant's counter claim and that no specific reason has been given for rejection of the claim is lame. We note from the impugned award that the Ld. Sole Arbitrator has reasoned that the Appellant herein had not submitted any proof of delivery for the recovery letter sent to the Respondent herein. We are further not inclined to accept the contention of the Appellant for the same, as it is on record that the recovery letter is dated



20.10.2014 whereas the Appellant had apparently written off the counter claim amount of Rs. 1,22,227.65 (Rupees One Lac Twenty Two Thousand Two Hundred Twenty Seven and Sixty Five Paise Only) on 27.12.2013. We are of the opinion that the purported recovery letter dated 20.10.2014 of the Appellant appears to be an afterthought as the Respondent herein had initiated arbitration proceedings vide arbitration application dated 30.10.2014.

Further the Appellant has failed to make out any case on the point of the alleged writing off the dues of the Respondent herein on account of the purported merger of the Appellant with one Network Stock Broking Ltd. The Appellant has not brought on record any evidence that the Hon'ble Bombay High Court, before which the merger petition had been filed, has so directed the Appellant to write off the amount in dispute before us.

ORDER:

1. The appeal is dismissed.
2. No order as to costs.

Ahmedabad, dated this 24th day of June, 2015



Mr. Anil N. Shah
(Presiding Arbitrator)



Mr. Rasesh H. Parikh



Mr. Ashwin A. Shah