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BEFORE SHRI NEERAJ AARORA, THE SOLE ARBITRATOR

A. M. NO. DEL-10/2012

BETWEEN

Mr. Deepak Kumar

..... Applicant

AND

M/s. Angel Broking Ltd.

..... Respondent

Statutory Alert:

1. The authenticity of the Stamp Certificate can be verified at Authorised Collection Centers (ACCs), SHCIL Offices and Sub-registrar Offices (SROs).
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A. M. NO. DEL-10/2012

BEFORE SHRI NEERAJ AARORA, THE SOLE ARBITRATOR

In the matter of Arbitration under the Bye-Laws & Business Rules of the
MCX Stock Exchange Ltd.

A. M. NO. DEL-10/2012

BETWEEN

Mr. Deepak Kumar
811, BPTP, ParkCentra Sec-30
Opp.32nd Milestone, Gurgaon-122001

..... Applicant

AND

M/s. Angel Broking Limited
G-1, Akruti Trade Centre, Road No. 7
MIDC, Andheri (East)
Mumbai-400093

.....Respondent

AWARD

1. Mr. Deepak Kumar (hereinafter called as the Applicant) has filed the arbitration application on 12/12/2012 seeking compensation claim for Rs. 23,369/- alongwith penalty, interest and other expenses from M/s. Angel Broking Limited (hereinafter called as Respondent).

APPLICANT CASE:

2. That, on 01/10/2012 at 16:58:45 pm, trade was executed in the applicant account by the respondent which was not authorized by the applicant. The respondent bought 50 lots of FUTCUR USDINR on 01/10/2012 and squared off on 03/10/2012 resulting into a loss of Rs. 17384/- (including penalty for margin shortage of Rs. 759/-). The dealer of the respondent told that he forgot to remove the bid on 01/10/2012 which was subsequently squared on 03/10/2012 by the respondent.
3. The applicant further submitted that he also did a trade on 03/10/2012 in the same account and segment and booked a profit



A. M. NO. DEL-10/2012

of Rs. 5,985/- which was also not credited by the respondent in applicants account.

4. The applicant submits the screen shot of contract note of 01/10/2012 and 03/10/2012, Currency Bill of 03/10/2012 and ledger statement in support of his claim.

RESPONDENT CASE:

5. The applicant had opened a trading account with the respondent on 10/09/2012 and starts trading on 24/09/2012. It is further submitted by the respondent that the last trade was executed on 03/10/2012 in the account of applicant.
6. Respondent further submitted that all the trades were executed as per client consent on 01/10/2012 and respondent also confirmed the particulars of the trade to the applicant over phone which was not objected by the applicant. The respondent also submitted Compact disk containing recoding of the trade confirmation call made to the applicant along with transcript of the voice conversation.
7. The respondent also sent the copy of electronic contract note/bills/margin statement/trade confirmation to the registered email id of the applicant i.e. deepak.style02@gmail.com. Moreover, the trade confirmation was also sent to the client through SMS on his mobile no. 9711012209 provided by him in KYC.
8. The respondent further submitted that the applicant was also accessing his back office account and verifying all the details. Thus the applicant was fully aware about every transaction executed in his account.
9. The respondent further submitted that no intraday trade was executed on 03/10/2012 as alleged by the applicant except squaring off 50 lots of FUTCUR USDINR which was taken on 01/10/2012 by the applicant. Therefore, the contention of the applicant that he booked profit of Rs. 5,985/- on 03/10/2012 in intraday trade is false and baseless.

As per

A. M. NO. DEL-10/2012

10. The respondent submits copy of the contract note of 01/10/2012 & 03/10/2012 alongwith copy of KYC, Voice Recording, Logs of Back office access, SMS and Electronic Contract note sent to the applicant.

HEARING

11. On Feb 12 2013, applicant appeared in person and Mr. Rahul Saxena AR appeared on the behalf of the respondent. The applicant reiterated his averments as mentioned in the statement of case and regarding telephonic recording, he replied that these calls are being received in routine and nobody pay much attention to these calls. Regarding the intraday trading, he on being confronted with the bills submitted by him which does not contain any intraday trade but contain the reference of amount of Rs. 5,985/-, he stated that the respondent has not reflected the trade intentionally. The AR of the respondent denied all the allegations and submitted that the case is false and no amount is payable to the applicant.

FINDINGS:

12. The perusal of the contract note relating to the bill relied upon by the applicant indicates that apart from other trades, two lot of 50 each of FUTCUR USDINR were purchased in the account of applicant on 01/10/2012 and out of which, one lot was squared and the another one was carried forward. The applicant has denied the purchase of second lot which is being carried forward.
13. Subsequently on 03/10/2012, the second lot which was carried forward was sold and the applicant suffered the loss as follows:-

S.No.	Date	Buy Rate (Net)	Sell Rate (Closing Rate)	Profit/Loss
1.	01/10/2012	52.7925	52.4600 (Closing Rate)	16,625.00 MTM Loss debited
2.	03/10/2012	52.4600 (Closing Rate)	52.5797	5,985.00 profit
			Net Loss (After taxes)	10,760.00

[Handwritten signature]

14. That the respondent has submitted the copy of SMS Log, Email Log and recording of voice conversation showing the intimation of purchase of second lot on 01/10/2012 which was not denied by the applicant.
15. The amount of profit of Rs. 5,985/- which the applicant is claiming as intraday profit is not the profit from intraday transaction but the profit of the second lot which was arisen on 03/10/2012 and due to the loss of Rs. 16,625/- on 01/10/2012, the net result is the loss of Rs. 10,760/-.
16. The applicant is blowing hot and cold whereby he is refuting the loss arising out of the same lot on 01/10/2012 and claiming the profit arising out of the same lot on 03/10/2012. The case of the applicant is false and frivolous.

Therefore, for the reasons given above, the claim of the applicant is untenable and is accordingly rejected.

Made and signed on this 14th Day of February 2013 at New Delhi.

Place: New Delhi
Dated: 14/02/2013


(Neeraj Aarora)
Sole Arbitrator