

भारतीय गैर न्यायिक

एक सौ रुपये

Rs. 100

ONE HUNDRED RUPEES

भारत INDIA

INDIA NON JUDICIAL

प्रधान मुद्रांक पत्रालय, मुंबई
प. मु. वि. क्र. २००००००२
6 DEC 2014
सक्षम अधिकारी

CHAPTER OF ARBITRATION UNDER THE CHAPTER IV OF BYE LAWS, RULES AND REGULATIONS OF MCX STOCK EXCHANGE LIMITED (MCX-SX)

ARBITRATION MATTER REF. NO.: MUM-03/2014

BEFORE THE SOLE ARBITRATOR

SHRI D.A. KAMAT

Between

Angel Broking Private Ltd.
Trading Member
Member Code Number: 10500
MCX STOCK EXCHANGE LIMITED

... Applicant

And so

Mr. Vijay Rochlani,
Constituent
201, Harihar Niwas,
C/o. Alpa A. Patel, 2nd Fl. 15th Road,
Khar West, Mumbai 400052

... Respondent

DSN.

AGREEMENT

12 DEC 2014

जोड़पत्र-२/Annexure-II

१	मुद्रांक घिली नोंदणी अनु. क्रमांक/दिनांक (Serial No /Date)	1896
२	वस्तुवा प्रकार (Nature of document)
३	रस्त नोंदणी करणार आहेत का ? (Whether it is to be registered ?)	होय/ नाही Yes/No
४	मिळकतीचे खोडक्यात वर्णन- (Property Description in brief)
५	मुद्रांक दिवत घेणाराचे नाव व सही (Stamp Purchaser's Name & Signature)
६	असत दस्तऐवज आहेत ना, पसत ना (It is/it is not other person then Name, Address & Signature)
७	दुसऱ्या पक्षाकराचे नाव (Name of the other party)
८	मुद्रांक शुल्क रक्कम (Stamp Duty Amount)
९	रक्कम रु. (1000000) मुद्रांक विक्रीचे ठिकाण/ पत्ता. श्री अमिल मॉड्युलर कुल कोर्ट, एल.डी.एस. मार्ग, मुंबई-४०० ०४०.

MCX Stock Exchange Ltd.
4th Floor, Vibgyor Towers,
Plot No. C-62, Opp. Trident H
Bandra Kurla Complex,
Bandra East, Mumbai - 400038
Tel: +91-22-8112 9000
Fax: +91-22-210 8889
www.mcx.co.in

12 DEC 2014

या कारणासाठी ज्यांनी मुद्रांक खरेदी केला त्यांनी त्याच कारणासाठी मुद्रांक खरेदी
केल्यापासून ६ महिन्यात बायस्चे बंधनकारक आहे.

This is an arbitration reference submitted to me under the Rules, Bye-laws and Regulation of MCX Stock Exchange Limited.

1. The Applicant and Respondent have agreed to settle the claim under the Bye-Laws, Rules and Regulations of MCX Stock Exchange Limited. The Applicant is a registered Trading Member with MCX Stock Exchange Limited and the Respondent is a client of Applicant having client code V47916.
2. The Applicant and Respondent entered into Member - Client Agreement and as per the agreement any claim or dispute is to be resolved through Arbitration proceeding as per the Rules, Bye-Laws and Regulation of the Exchange.

CLAIM

3. The Applicant submitted its claim to Exchange on 04th August 2014 for ₹ 1,59,111.05 (Rupees One lakh fifty nine thousand one hundred eleven and paisa five only) with Interest at 18% p.a. till payment.
4. The Exchange has appointed me as Arbitrator for this matter.
5. The Applicant alleged that the Respondent on 10th June 2013 had open position of USDINR Qty. 2,00,000 expiry on Sep 26, 2013 and qty. 2,08,000 expiry on Aug 28, 2013. Due to these open positions there was a margin requirement in his account at the end of the day on 10th June, 2013. The Respondent was requested to replenish his margin requirement. In spite of margin call to Respondent, which he failed to fulfill, the Applicant squared off the open positions of the Respondent with due intimation and consent. Consequent to the squared off the on 11th June 2013 Respondent incurred MTM loss of ₹124335.34 and his ledger outstanding was ₹3,24,432.82 and thereafter on failing to clear his (Respondent) outstanding he was levied with delay payment charges. Further, the Respondent's accounts was reflecting the debit balance of ₹3,26,313.02 as on 13th January, 2014. However on 08th February, 2014 the Respondent's account was credited with ₹1,67,100.48 by way of intersegment fund transfer as per clause 9 and respondent debit reduced to ₹1,59,032.54 and hence as on date amount of ₹1,59,111.05 stand due and payable by the Respondent.
6. The Applicant alleges that trades were executed as per the instruction of the Respondent. For all the trades carried out by the Respondent through the Applicant, Applicant issued contract notes, bills and margin statements at the Respondent's email id on regular basis. The ledger statements to the Respondent were sent on his email ID. The Applicant also sent trade confirmation on daily basis via SMS on his Mobile number. The Respondent have never raised nay dispute about any of these transactions.
7. The Respondent by its letter dated 26th August, 2013 raised claim of ₹15,70,000.00 against the Applicant on account of Loss due to forced square off, wrong penalty, penalty for late payment of margin and forced early pay ins and mental harassment.
8. The Respondent claimed that the Applicant fines 3-4% per day but on the other hand if payment gets late by Respondent, the Applicant never pays the charges for the same.



DOCUMENTS SUBMITTED

9. Applicant submitted along with the claim the copy of member-client agreement, KYC/MCA, MCX Ledger statement, ECN log, Ledger Log, Trade confirmation SMSs, Contract Notes, Bills and Notice dated 13th January 2014 with proof of dispatch.
10. The Applicant also filed Rejoinder to the reply of the Respondent and reply of the applicant to the counter claim of the Respondent dated 31st October 2014.
11. The Applicant also filed written submission alongwith CD.
12. The Respondent filed email dated 23rd April 2013 alongwith copies of internal emails of the Applicant. He also filed counter claim dated 26th August 2013.
13. The Respondent filed additional submissions dated 24th November 2014.

HEARINGS

14. The First Hearing was scheduled on 22nd September 2014 was postponed on the request of the Respondent on medical ground. The hearing took place on 20th October 2014 at 11.00 am when Mr. Shashikant Chandak, Manager, Legal and Compliance was appeared on behalf of the Applicant and Mr. Vijay Rochlani, Respondent appeared self during the hearing. In this hearing, the Applicant made an application for adjournment and sought 4 weeks for submitting their response to the respondents counter claim. It was decide that applicant will file his reply on or before 30th October, 2014 and respondent will file his reply on or before 10th November 2014.
15. The next and final hearing held on 18th November, 2014 when Ms. Sylvia Fernandez, Sr. Manager, Legal and Compliance and Mr. Shashikant Chandak, Manager Legal and Compliance appeared on behalf of the Applicant and Mr. Vijay Rochlani, Respondent appeared self during the hearing. In this hearing the parties were heard at length. The Applicant placed on the record letter dated 17th July 2013 and 01st August 2013 and voice recordings of 10th June 2013 and 11th June 2013. The parties were directed that in case of written submission if any to be placed within 10 days from the date of hearing.

ARGUMENTS

16. The Applicant argued during the hearing on 18th November, 2014 and other documents Submitted stated that
 - a. Respondent started trading in his account from 20th September 2012 and the last trade reflected in his account is on 11th June 2013. All contract notes, bills and margin statement, ledger statements were send on the Respondents registered id and sent trade confirmation on daily basis via SMS on his mobile number
 - b. Due to the Respondent's open position, there was margin requirement in his account at the end of the day 10th June 2013. As the Respondent failed to fulfill his margin requirement, the applicant squared off his open position with due

intimation and consent. This is resulted the MTM loss of ₹124335.34 and ledger outstanding was ₹3,24,432.82. However on 8th February 2014, the account was credited with ₹1,67,110.48 by way of intersegment fund transfer and thus reduced the debit to ₹1,59,032.54.

- c. The Respondent has agreed to pay charges towards delay payment and other charges/penalties towards his liability.
- d. The breakup of claim made by the Respondent is baseless. The argument of forced square off his open position is baseless and all the trades/square off were done by the client himself voluntarily only.
- e. The Respondent has duly accepted and admitted the trades in the account and never disputed. The Respondent has raised his claim only after the demand for payment by the applicant. The claim of ₹7 lakhs by the respondent due to forced square off is hence liable to be rejected.
- f. The shortage penalty has been levied as and when there was a margin shortfall from the Respondent. This margin is collected by the Exchange from the Trading member and same is in turn collected by the trading member from the clients.
- g. The amount of ₹5,00,000/- on penalty for late payment is not supported by any workings by the Respondent.
- h. The Respondent himself used to login into the ODIN system and used to do online trades and also had regular back office access.

17. The Respondent argued during the hearing and based on his submission stated that
 - a. That due to forced square off he has to incurred loss of ₹7,00,000/-.
 - b. That due to wrong penalty he requires compensation of ₹70,000/-.
 - c. The penalty for late payment of margin and forced early pay ins has asked for Compensation of ₹5,00,000/- and
 - d. Mental harassment of ₹ 3,00,000/-.
 - e. The system of the Applicant was not working whenever payout has to do but working efficiently when amount to be recovered from him. He was getting reply for around 6 to 7 months that the system is down whenever the payout has to be done.
 - f. He also produced the internal email of the Applicant stating that the internally the staff was agreeing there are certain problems in his account and there was discussion was going on the same to solve the same.

FINDING OF THE ARBITRATOR

18. As per the records available, the Respondent nowhere disputed that he has not received the ledger statements, SMS, email etc. on the subject matter from the Applicant. Further he has not denied any transactions carried out by him in his reply.
19. Further the Respondent has not pointed out a single instance wherein the requirement of margin money was met and the payout has been blocked or not given. Regarding the email dated 23rd April, 2013 on non-release on payment of ₹2,25,000/- is not sustainable as payment vide RTGS of ₹2,25,000/- on the same day was made.
20. The Applicant has explained the technical glitch in his submission and corrected the same accordingly.



21. The Respondent's submission of the extract of internal emails between the staff members of the Applicant cannot be correlated exactly and hence cannot be reliable.
22. The counter claim raised by the Respondent does not come with any supporting and hence cannot be maintainable.

AWARD

1. Accordingly the claim of the Applicant of ₹1,59,111.05 (Rupees one lakh fifty nine thousand one hundred one and paise five) is upheld together with an interest @ 9% p.a. thereon from 06th May 2014 till the date of payment.
2. The counter claim raised by the Respondent is rejected.



Sole Arbitrator: Shri D.A. KAMAT

Mumbai, Dated the 27th December, 2014.