



सत्यमेव जयते

# INDIA NON JUDICIAL

## Government of National Capital Territory of Delhi

### e-Stamp

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 Description of Document : Article Others  
 Property Description : NA  
 Consideration Price (Rs.) : 0  
 (Zero)  
 First Party : MAHMOOD ALI KHAN  
 Second Party : NA  
 Stamp Duty Paid By : MAHMOOD ALI KHAN  
 Stamp Duty Amount(Rs.) : 1,20,570  
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Before Justice Mahmood Ali Khan (Retd.) (Presiding Arbitrator), Mr. Dipankar Basu and Mr. Tejinder Singh Laschar, Arbitrators  
 In the matter of Arbitration under the Bye Laws, Rules and Regulations of the National Stock Exchange of India Ltd  
 A.M. No. – NSEDRO/0006533/21-22/ARB

Between

Globe Capital Market Ltd.  
 609, Ansal Bhawan,  
 16 K G Marg,  
 New Delhi – 110001

And

Narayan Securities Ltd.  
 E-1/7, III Floor,  
 East Patel Nagar,  
 New Delhi – 110008

.....Applicant

Award

.....Respondent

0008783493

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#### Statutory Alert:

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**NATIONAL STOCK EXCHANGE OF INDIA LIMITED**

Before the Panel of Arbitrators: Justice Mahmood Ali Khan (Retd), Presiding Arbitrator  
Mr. Dipankar Basu, Arbitrator  
Mr. Tejinder Singh Laschar, Arbitrator

In Arbitration matter no.: NSEDRO/0006533/21-22/ARB

Globe Capital Market Limited,  
609, Ansal Bhawan, 16, K. G. Marg,  
New Delhi – 110001.

...Applicant/Clearing Member

Versus

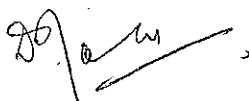
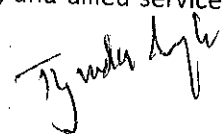
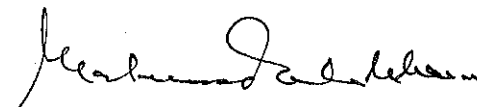
Narayan Securities Limited,  
E – 1/7, 3<sup>rd</sup> Floor, East Patel Nagar,  
New Delhi – 110008.

...Respondent/Trading Member

**AWARD**

1. The Clearing Member is seeking an award against the respondent Trading Member for an amount of Rs. 14,31,70,502.30 along with interest @ 15% p.a. calculated w.e.f. 01.04.2021 till the date of full payment of the award amount and future interest at such rate as the Arbitral Tribunal deemed fit and proper.

2. Briefly stated the case of the applicant is that the respondent Trading Member became its constituent after executing Clearing Member – Trading Member Agreement on 09.03.2017 with respect to Future & Option Segment and Clearing Member – Trading Agreement dated 28.08.2008 with respect to Currency Derivative Segments for the purpose of, inter alia, clearing and settlement of its obligations on NSEIL for Future & Option Segment and Currency Derivative Segment. In terms of those agreements, the respondent was obliged to pay certain fees, charges, brokerage, commission etc., besides other amounts towards daily mark to market settlement, final settlement etc. As a Trading Member the respondent was further obliged to reimburse any loss amount caused by closing/liquidation of open positions, by the applicant being clearing Member in the event of non-payment of dues by the respondent towards margins, daily mark to market settlement, final settlement, fees, charges, brokerage, commission, penalties, and expenses. A composite sum of Rs. 20,13,06,546.11 became due against the respondent towards services of clearing and settlement of deals, and allied services, availed of by it from the applicant against which it

made part payment of Rs. 2 crores on 16.09.2019. In terms of the aforementioned agreements, the respondent also made certain deposits/furnished Bank Guarantees drawn in favour of the applicant by way of security. The applicant on 16.09.2019 invoked the said Bank Guarantees and realised a composite sum of Rs. 6 crores. After crediting the aforementioned amounts realised in the respondent's ledger account a net principal sum of Rs. 12,05,64,652.12 as on 30.04.2020 was payable by the respondent to the applicant. The respondent has acknowledged in a written communication dated 01.01.2020 its liability to pay this amount. According to the applicant, together with the interest amounting to Rs. 2,26,05,850 calculated @ 15% p.a. on the principal sum a total sum of Rs. 14,31,70,502.30 is due against the respondent as on 31.03.2021 which is recoverable from the respondent. The respondent has failed to pay the amount due. The applicant has prayed for passing an award in the amount of Rs. 14,31,70,502.30 with future interest @ 15% p.a. from 01.04.2021 to the date of full realization and future interest at such rate as this tribunal deemed fit and proper.

3. The respondent in its reply to the arbitration application has submitted that it was having in August 2018 substantial number of shares of DHFL but due to a drastic fall in the prices of those shares on 21.09.2018, it suffered huge losses which wiped of its entire capital. The respondent incurred a total liability of Rs. 70 crores and the applicant partly recovered it by selling respondent's securities with it as margin/collateral or by invoking Bank Guarantee provided by it. An amount of Rs. 2 crores was paid by the respondent on 16.09.2019 leaving a sum of Rs. 12,05,64,652.12 due against it. The respondent is also claiming interest accrued on this amount. Net worth of the respondent is in negative and it does not have any resources left to pay the amount claimed in this case. It is requested that this Tribunal taking a sympathetic view may pass such order in the interest of justice and fair play.

4. We have heard Mr. Kapil Marwah, authorised representative of the applicant clearing member and Mr. Ramesh Chandra Saraf and Mr. Ashish Saraf, authorised representatives of the respondent trading member. We have also carefully considered the documents filed by the parties in this case.

5. The respondent in its reply filed to the arbitration application has admitted that a principal amount of Rs. 12,05,64,652.12 was due and payable by it to the applicant as on 30.04.2020. It has also not denied that adding a sum of Rs. 2,26,05,850/- towards interest calculated @ 15% p.a. on the said principal sum a total amount of Rs. 14,31,70,502.30 was outstanding against it as per the ledger account. The documents filed by the applicant also vouchsafe the veracity of its claim.

6. Mr. Ramesh Chandra Saraf, authorised representative, of the respondent, during the course of arguments, has submitted that as a result of drastic fall in the price of the DHFL shares held by it on 21.09.2018 the respondent suffered huge loss resulting in to an outstanding debit balance of Rs. 70 crores. The respondent made a part payment of Rs. 2 crores on 19.09.2019 and some amount was realised by the applicant by selling the respondent's collateral securities or the Bank Guarantee leaving the balance amount of Rs. 12,05,64,652.12 due against the respondent as claimed by the applicant. Mr Saraf has

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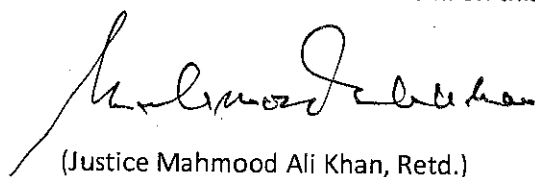
submitted that this arbitral tribunal may pass an award in the sum of Rs. 12,05,64,652 in favour of the applicant and against the respondent. As regards the remaining claim Mr. Saraf has submitted that it is toward the interest @ 15% p.a. on the principal amount which the respondent is not in a position to pay since its net worth is in negative and it has left with no resources to raise fund. He has, therefore, requested that the amount claimed in the application as interest may be waived considering the financial distress of the respondent.

7. Mr Marwah, representative of the applicant, conversely, contended that the respondent in its reply has clearly admitted the claim as pleaded by the applicant so an award in the amount of Rs. 14,31,70,502.30 is liable to be passed against the respondent. However, during the discussion, though, he initially pressed for passing award in the total amount claimed in the arbitration application, but on persistent request of the representative of the respondent he relented and waived off the claim towards interest and agreed to the passing of the award in the amount of Rs. 12,05,64,652. As such both of the parties have requested that an award in the amount of Rs. 12,05,64,652.12 may be passed against the respondent instead of the total sum claimed in the prayer clause.

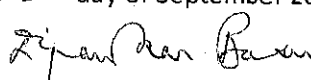
8. The representative of the applicant has submitted that the respondent-trading member has not paid to the Exchange, its share of applicable arbitration fee of Rs. 2,50,431/- and the same has been realised by the Exchange from the applicant and that the respondent should be directed to pay the same to the applicant. The representative of the respondent, however, reiterated that the respondent has no money to pay it. The representative of the applicant did not press his request any further.

9. Accordingly with the consent of the parties an award in the amount of Rs. 12,05,64,652.12 is passed in favour of the applicant clearing member and against the respondent trading member. The respondent shall pay the amount awarded within three months from the date of this award. In the event respondent has failed to pay the amount by the date stipulated above, the applicant clearing member shall be entitled to receive interest on the amount in default @ 10% p.a. from the date of the award to the date of full realisation.

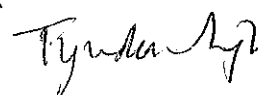
This award is announced at Delhi on this 24<sup>th</sup> day of September 2021.



(Justice Mahmood Ali Khan, Retd.)  
Presiding Arbitrator



(Dipankar Basu)  
Arbitrator



(Tejinder Singh Laschar)  
Arbitrator