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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.1502 OF 2014

M/s.Alpha Commodity Pvt. Ltd.	...Petitioner
V/s.	
Ms.Sandhya Gupta	...Respondent

Mr.A. Davar with Mr.Nikhil Ragani i/b M/s.Argud Partners for the
Petitioner.

None for the Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 29TH JANUARY, 2015.

P.C. :-

1. By this petition filed under section 34 of the Arbitration & Conciliation Act, 1996, the petitioner has impugned part of the award by which the arbitral tribunal has rejected substantial part of the claims made by the petitioner. Some of the relevant facts for the purpose of deciding this petitioner are as under :

2. On 16th April, 2010, the petitioner and respondent entered into a member client agreement. The respondent was the client of the petitioner and was entitled to carry out the trade in the commodities on MCX through the petitioner on the terms and conditions stipulated in MCA. It is the case of the petitioner that under the said agreement,

the respondent gave instructions to the petitioner to carry out various transactions. The debit balance in the account of the respondent with the petitioner was Rs.1,11,44,538.37. The learned counsel for the petitioner submits that though there was no defence to the said claim made by the petitioner before the arbitral tribunal and there was no denial to the transactions, the arbitral tribunal instead of allowing the entire claim in the sum of Rs.1,11,44,538.37 with interest, has allowed only a meager sum of Rs.6,10,771/-.

3. None appeared for the respondent, though served. I have heard Mr.Davar, the learned counsel for the petitioner and has perused the award. It is submitted by the learned counsel for the petitioner that though there was debit balance in the account of the respondent, the petitioner had shown indulgence not to demand for margin money as required under the agreement and the bye-laws. On the instructions of the respondent, the petitioner carried out the trade transactions and thus merely because the petitioner did not ask for margin money though there was debit balance, the arbitral tribunal could not have come to the conclusion that the transactions carried out by the petitioner at the instance of the respondent were nullified. It is submitted that at the most, the petitioner could be penalized by the exchange for not demanding the margin money before carrying out the different transactions though there was debit balance in the

respondent's account.

4. A perusal of the impugned award clearly indicates that there was debit balance in the account of the respondent on 23rd April, 2010 at Rs.2,44,228/-. The said debit balance was increased to Rs.8,53,741/- as on 28th April, 2010 and further increased to Rs.70,62,082/- as on 19th October, 2010. Though there was debit balance in the account of the respondent, the petitioner admittedly did not demand any additional margin money from the respondent and carried out further transactions in the account of the respondent to the tune of Rs.71.08 lakhs and Rs.70.23 lakhs i.e. buy and sell respectively.

5. A perusal of the record indicates that though the claims made by petitioner from the respondent were vague and without proof, the arbitral tribunal has shown indulgence by perusing the record with a view to do complete justice in the matter and after considering the record, has rendered a finding that though there was debit balance, which was mounting between 23rd April, 2010 and 30th April, 2010, the petitioner carried out large number of transactions in the account of the respondent without any authority and in breach of the bye-laws. In my view the petitioner was required to demand the margin money in the case of the debit balance of the constituent, the petitioner not having demanded the margin money and continued to

carry out the trade in the account of the respondent, the trades were in violation of the bye-laws and would indicate that there was no authority given by the respondent to the petitioner to carry out such transactions. The view taken by the arbitral tribunal is possible view and the findings rendered by the arbitral tribunal are not perverse and thus no interference is called for under section 34 of the Arbitration & Conciliation Act, 1996.

6. The petition is devoid of any merits and is accordingly dismissed.

No order as to costs.

(R.D. DHANUKA, J.)