

**IN THE NATIONAL CONSUMER DISPUTES REDRESSAL  
COMMISSION AT NEW DELHI**

**RESERVED ON: 17.04.2025**

**PRONOUNCED ON: 09.06.2025**

**FIRST APPEAL NO. 1089 OF 2014**

(Against the Order dated 01/11/2013 in Complaint No. 73/2009 of the  
State Commission Punjab, Chandigarh)

Tajinder Kumar Taneja  
S/o Late Sh. Ram Saran Dass  
Opposite State Bank of Patiala,  
Tanda Road, Jalandhar, Punjab.

..... Appellant

**Versus**

1. M/S Unique Investments  
Through Its Partner Manouti Dhawan,  
W/o Sandeep Dhawan,  
373, Adarsh Nagar, Jalandhar (Punjab)

2. Manouti Dhawan  
W/o Sandeep Dhawan  
373, Adarsh Nagar, Jalandhar (Punjab)

3. Ashu Randhev  
W/o Ashwani Randhev  
R/o 29, Tagore Park, Near Dharma Kanta,  
GT Road, Jalandhar (Punjab).

.... Respondents

**FIRST APPEAL NO. 1090 OF 2014**

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State Commission Punjab, Chandigarh)

Tajinder Kumar Taneja  
S/o Late Sh. Ram Saran Dass  
Opposite State Bank of Patiala,  
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.... Respondents

**BEFORE:**

**HON'BLE AVM J RAJENDRA AVSM VSM (Retd.) PRESIDING MEMBER**  
**HON'BLE JUSTICE MRS. SAROJ YADAV, MEMBER**

For the Appellant : Mr. Arjun Jain and Mr. Ankit Kumar, Advocates  
Mr. Dilip Chowdhry, AR  
For the Respondents : R-1 & R-2 already ex-parte  
Mr. Atul Malhotra, Advocate for R-3

**JUDGMENT**

**AVM J RAJENDRA AVSM VSM (Retd.) PRESIDING MEMBER**

1. These two Appeals Nos. FA/1089/2014 and FA/1090/2014 have been filed by Tajinder Kumar Taneja ("Appellant"/ "Complainant") against M/s. Unique Investments & Ors. ("Respondents"/"Opposite Parties - OPs") challenging the Orders dated 01.11.2013 in CC/73/2009 and CC/74/2009 respectively wherein the State Consumer Dispute Redressal Commission, Punjab, Chandigarh ("State Commission") dismissed both the Complaints.

2. Since the facts and question of law involved in both Appeals are substantially similar, except for minor variations in the dates, events and cheque numbers, these Appeals are being disposed of by this common Order. Nevertheless, for ease of reference, **First Appeal No. 1089 of 2014** is being considered as the lead case, and the facts outlined below are derived from ***Consumer Complaint No. 73/2009***.

3. As per the Registry report, there is 209 days delay in filing both the Appeals. In view of the facts and circumstances of the case, the delay is condoned. For convenience, the parties in the case are being referred to as stated in the Consumer Complaint before the State Commission.

4. Brief facts of the case, as per the Complainant, are that Opposite Party (OP)-1 is a partnership firm with OP-2 and 3 as partners. The said partnership firm holds a valid share broking license and operates as a sub-broker of M/s Integrated Market Securities Ltd., a partnership firm was actively managed and operated by OP-2 and 3, along with their respective husbands, Mr. Ashwani Randhev and Mr. Sandeep Dhawan, who are qualified Chartered Accountants and played instrumental roles in the day-to-day operations of the firm. The OPs and their aforementioned husbands were personally known to the Complainant and approached him with an investment proposition, inducing him to invest substantial sums with assured returns and profits. The OPs specifically assured him that they would provide comprehensive Portfolio Management Services (PMS) for purchase and trading of shares based on their professional advice and expertise. The terms offered included an assured return of 1% per month, along with ninety percent of the profits generated after taxes, while OPs would retain brokerage charges and 10% of the profits as their compensation. Based on these assurances and professional relationship established, the Complainant executed various forms and provided necessary documentation to open a trading account with the OPs for the purpose of building and managing his investment portfolio. The Complainant complied with all requirements and made initial investments as advised and required by the OPs. Subsequently,

between 08.01.2005, and 30.04.2007, he transferred Rs.26,50,000 to the OPs through multiple cheque payments. This included Rs.1,50,000 contributed by Late Smt. Nita Arora, his spouse. All payments made to OPs were exclusively through cheques, and the Complainant possesses corresponding bank letters confirming their encashment by OP-1. Throughout the investment period, the Complainant repeatedly requested the OPs to provide his Account No. and Demat Account details for verification and monitoring. However, the OPs consistently avoided providing this information and instead assured the Complainant of excellent growth prospects and good returns on his investment. While some nominal amounts were returned to him during this period, the net outstanding balance remained Rs.26,50,000, along with accrued interest and projected profits. On several occasions, the Complainant expressed his need to withdraw his invested funds for business purposes and requested the return of his money. The OPs, along with their husbands, continued to delay and avoid returning the funds under the pretext that the money had been actively invested in profitable ventures and that he should exercise patience to realize attractive returns. To support their claims, the OPs presented him with a purported portfolio statement showing various share holdings with projected returns and substantial profits, claiming an astounding growth rate of approximately 150%. When the complainant finally demanded the complete return of his invested amount along with the promised

interest and profits due to his financial requirements, the OPs demonstrated reluctance and continued their pattern of delays. However, in April 2007, they issued a cheque for Rs. 49,00,000 as purported full and final settlement, though this was credited to a different account where the complainant served as Karta of a Hindu Undivided Family (HUF), despite having invested only Rs. 17,25,000 from that particular account. The said cheque was subsequently returned to OPs following a settlement agreement wherein the OPs assured the complainant of the complete return of his invested funds within six months. As part of this settlement, the OPs issued two cheques: one for Rs.6,50,000 towards partial settlement of the HUF account, and another for Rs.15,00,000 towards partial settlement of the Complainant's individual account, with explicit assurances that the remaining balance would be paid within the stipulated six-month period. However, upon presentation for payment, both cheques were dishonored by bank due to insufficient funds. When he immediately contacted OPs, he was assured further that money would be returned at the earliest opportunity. Despite these repeated assurances, he received nothing beyond empty promises and verbal commitments. The Complainant served a legal notice upon OPs under Section 138 of the Negotiable Instruments Act, 1881. Subsequently, he filed a criminal complaint, which is pending adjudication. The Complainant continues to await the return of his rightful invested funds. He contended that

there exists manifest deficiency of service on the part of OPs, to whom substantial funds were entrusted for professional portfolio management services with explicit commitments for subsequent return of principal amount along with promised interest and profits. The OPs failed to discharge their professional obligations and caused significant financial hardship and mental agony to the Complainant through their negligent and unprofessional conduct.

5. On notice, OPs filed their reply and raised preliminary objections on the maintainability of the complaint in its present form. OPs contended that the complaint lacks jurisdiction as it pertains to sale transactions conducted through the Exchange, which should be adjudicated through arbitration proceedings. OPs contended that the complaint is hopelessly time-barred and that he failed to approach this Commission with clean hands, having suppressed material facts relevant to the case. According to OPs, the Complainant approached them requesting the opening of a trading account, which was subsequently established on 23.11.2004 as per his request. From the date of account opening until 30.03.2007, numerous transactions involving the sale and purchase of shares were conducted by the complainant personally through OP-1 account. The statement of account clearly indicates number of transactions and Rs.88 lakhs is due from the Complainant. He is fully aware that he is legally obligated

to pay the amount to OPs. The OPs alleged that, acting with malafide intention and ulterior motives, he unlawfully obtained some signed cheques belonging to OPs. The OPs contended that the business operations of the firm were managed by Sandeep Dhawan, the husband of one of the partners, who maintained custody of pre-signed cheques from the partners to facilitate daily transactions without requiring their constant presence. During a period when OPs were renovating their office premises, Sandeep Dhawan's brother-in-law was hospitalized at DMC and subsequently passed away, causing Sandeep Dhawan to lose strict control over the aforementioned cheques. The OPs contended that the Complainant exploited these circumstances to unlawfully obtain the cheques and subsequently misused them while fabricating a false narrative. The matter was initially referred to the police authorities for investigation. However, he later returned the cheques to OPs, acknowledged his wrongdoing, and offered an apology, following which no criminal proceedings were pursued. Despite this resolution, he later filed two complaints under Section 138 of Negotiable Instruments Act in the Court of Jalandhar and initiated two additional complaints before this Commission. OPs categorically denied any liability towards the complainant and maintained that he regularly collected account statements and made payments for purchase and sale transactions, following the standard practice of mark-to-market settlement as per Exchange regulations. Payments

were consistently made to the complainant at regular intervals as evidenced by their records. On merits, OPs denied the allegations of cheating the Complainant. While they acknowledged that OP-1 is a partnership firm with OP-2 and 3 serving as partners, they denied that the Complainant was directed to invest money with guaranteed returns or was promised portfolio management services at 1% per month. The OPs contended that no such commitments were ever made, emphasizing instead that the complainant conducted trading activities independently through OP-1 account and was responsible for clearing liabilities arising from such trading. OPs maintained that all payments were made through proper channels, including both cheques and cash as documented in the statement of account. They contended that the Complainant's silence for three years, particularly given the circumstances surrounding his attempts to recover losses as per OPs bills, undermines his current claims. The OPs reiterate that the complainant misused Sandeep Dhawan's cheque as previously described. The statement of account maintained by the OPs was prepared in strict accordance with bills and ledgers reflecting the trading activities conducted by the Complainant. OPs contended that no money is due to the Complainant as alleged and that there was no deficiency in their service and that they consistently provided detailed account statements in accordance with demand, applicable rules, and regulations.



6. The State Commission vide order dated 01.01.2013 directed:

**ORDER**

**11. In the present case also the complainant himself in para No. 3 of the complaint mentioned that the respondent firm hold a license of share broker being a sub-broker of M/s Integrated Market Securities Ltd. and that they had invested their amounts in the trading business as is clear from the complaint and documents perused on the record. Certainly, trading is for commercial purpose, therefore, the complainant does not come within the definition of 'consumer' as defined under Section 2(d)(ii) of the CP Act specifically in view of the judgment referred above in which the judgment of the Hon'ble Apex Court referred above was affirmed. No contrary judgment was cited by the counsel for the complainant how he comes under the definition of 'consumer' to file a complaint with the Consumer Fora.**

**12. Then the complainant in his complaint has stated that he had deposited various amounts from 12.5.2006 to 19.1.2007 whereas the respondents in his reply has referred that a complainant had deposited lastly with respondent No. 1 on 30.3.2007 and had opened the account on 23.11.2004 in his individual account and HUF and the documents Ex. C-1 also shows that the last amount was deposited by the complainant on 19.1.2007. In case he was invested with respondent No. 1 since 2004, it is improbable that he did not settle his account with respondent No. 1 for his loss and profit whereas the respondents have placed on the record statement of accounts Exs. OP-1 to Ex. OP-3 and their plea is that the complainant had been taking the amount according to their trading transaction from time to time. Rather from statement of account Ex. OP-1 to OP-3 a sum of Rs.88,27,281.64p is outstanding against the complainant. In case upto 19.1.2007 when the complainant lastly made the payment and account was not settled then he was to file the complaint within a period of two years from 10.1.2007/ Even as per para No. 1 of the complaint, he did business with the respondents upto 31.3.2007 when dispute are so between the parties. Whereas the present complaint was filed on 22.9.2009 after a gap of more than two years and the complainant does not disclose in any paragraph as to when the cause of action has accrued to the complainant to file the complaint. Therefore, the complaint filed by the complainant is also barred by limitation.**

**13. In case the cheques issued by the respondents dishonoured,**

***the cheques may be for any purpose because there were pleading of the complainant and respondent No. 1 firm and for that they have been punished by the Criminal Court. In case they have accounting problem with each other, their claim lies with the Civil Court and the transaction between the parties is of commercial nature, the complaint before the Consumer Fora is not maintainable.***

***14. No other point has been argued.***

***15. In view of the above findings, we are of the opinion that the complaint filed by the complainant is without any merit and the same is dismissed without any order as to costs.***

7. Being aggrieved by the impugned order dated 01.11.2013 passed by the Ld. State Commission, Complainants (Appellants herein) filed this present Appeal no. 1089 of 2014 praying:

- A. Set aside the impugned order dated 01.11.2013 bearing No. SCDRC/PB/Judgment/14/S/2060 passed by Ld State Consumer Redressal Commission, the Disputes Punjab at Chandigarh, in CC No.73/2011 and direct the respondents to pay jointly and separately the amount of Rs.17,25,000 along with interest @ 1% per month as prayed in the original complaint No.73/2011 filed in the said Commission and disposed by impugned judgment;***
- B. Necessary cost of the proceedings may be ordered to be paid by the respondents to the appellant;***
- C. Any other relief(s), which this Commission may deem fit in the facts and circumstances of the case may also be granted to the appellant, in the interest of Justice;***

8. In the grounds of the instant appeal, the Appellant mainly contended that the State Commission gravely erred by failing to appreciate the fundamental nature of the service relationship between the parties. The primary service sought by the Complainant from the OPs was opening of a Demat Account in his name, which constituted the core obligation undertaken by OPs. Despite providing assurances, the OPs failed to fulfill this primary obligation, thereby constituting a

clear deficiency in service. The State Commission overlooked the specific contentions wherein OPs explicitly stated that Demat Account was not opened by them despite repeated requests. The State Commission erred in properly appreciating the legal framework for Demat Account services and the relationship between service provider and consumer. The OPs are contractually obligated to open the Demat Account for him and he was prepared to pay the requisite fees. The service of opening a Demat Account, being a preliminary and essential requirement, it cannot be characterized as commercial activity per se. The act of availing services from OPs for opening a Demat Account through proper channels establishes clear service provider-consumer relationship under consumer protection law. The Complainant contended that by providing assistance and services for opening a Demat Account, the OPs clearly function as service providers as defined under Section 2(d)(11) of the Act. The State Commission erred in not appreciating the fact that the independent trading of shares cannot be done in the name of a party, who does not have the Demat Account. The OPs agreed that the Complainant would be provided with the Portfolio Management Service for buying and trading of shares. The State Commission erred in not appreciating the malafide intention of OPs from the fact that the amount, which was returned by OPs to him vide different cheques was in fact never intended to be returned as the cheques were dishonored.

9. In his their arguments, the counsel for the Complainant reiterated the facts in the complaint and the grounds of appeal and asserted that the OPs, in conjunction with their respective husbands, induced him to invest money with assurances of guaranteed returns and profits. While he agreed to make such investment, a specific condition was established whereby the OPs, utilizing their professional expertise and knowledge in securities trading, were obligated to open a Demat Account in his name. This arrangement was intended to enable him to engage in independent trading activities in the share market, maintaining full autonomy over investment decisions and transactions. The OPs provided explicit assurances to the Complainant that the Demat Account would be opened expeditiously. In furtherance of this commitment, the OPs obtained his signatures on numerous printed forms and blank papers, ostensibly for the purpose of completing the necessary documentation required for account opening procedures. These actions created a legitimate expectation in the Complainant that the promised services would be rendered within a reasonable timeframe. Despite repeated requests and reminders from him, the OPs consistently failed to open the Demat Account, continuously postponing the fulfilment of their obligation under various pretexts. Concurrently, OPs received Rs.26,50,000 from the Complainant, which was specifically intended to be maintained and utilized within the promised Demat Account for trading purposes. This financial

arrangement was predicated entirely upon the understanding that the Demat Account would be established as assured by the OPs. When OPs continued to fail in opening the Demat Account despite numerous requests, the Complainant rightfully demanded return of the said investment amount. However, OPs categorically declined to refund the money, thereby compounding their breach of the original service agreement. This refusal to return his funds, coupled with failure to provide the promised services, constituted a clear violation of their fiduciary obligations. In April 2007, as part of an attempted resolution, the Complainant provided a cheque for Rs.49,00,000 to the OPs as full and final settlement of all outstanding matters. Subsequently, a settlement arrangement was negotiated between the parties whereby the Complainant was required to return the cheque of Rs.49,00,000 to the OPs. In exchange, OPs issued three separate cheques to him. Two cheques of Rs.6,50,000 each towards partial settlement of the Complainant's Hindu Undivided Family Account, and another cheque for Rs.15,00,000 towards his personal account. However, upon presentation to respective banks for encashment, all cheques issued by OPs were dishonoured, revealing the OPs lack of genuine intention to honour the settlement agreement. He asserted that the amounts purportedly returned by the OPs through the said cheques were never genuinely intended for repayment, as evidenced by the systematic dishonour of all cheques when presented for realization. This pattern of

conduct demonstrated the OPs deliberate attempt to deceive the Complainant and evade their financial obligations arising from their failure to provide the contracted services. Their conduct in failing to open his Demat Account while simultaneously accepting money under false pretences clearly constitutes deficiency in service as defined under consumer protection laws. The primary service relationship was established based on the OPs commitment to open a Demat Account, and their failure to fulfil this fundamental obligation represents a breach of their service provider duties. He asserted that the act of seeking services from the OPs for opening a Demat Account cannot be characterized as commercial activity until such time as the account is actually established and operational. Commercial activity in the form of share trading can only commence subsequent to the successful opening and activation of the Demat Account. Even after the account was opened, the decision to engage in trading activities remains entirely of the discretion of the account holder. He further emphasized that the account opening service itself is distinct from any subsequent commercial transactions.

10. On the other hand, the learned counsel for OP-3 reiterated the contentions in the written version and argued that the complaint is fundamentally barred by limitation and falls outside the jurisdictional purview of consumer fora. As per pleadings of the Complainant, the last payment made by the Complainant to OP-1 was on 30.04.2007.

This crucial fact is further corroborated by the account statement placed on record by the Complainant, which clearly demonstrates that the final payment of Rs.1,00,000 was deposited with OP-1 on the said date. He argued that the documentary evidence on record establishes beyond doubt that no financial transactions or business dealings occurred between him and OP-1 subsequent to 30.04.2007. However, the present complaint was filed on 22.09.2009, representing a delay of over two years from the date of the last transaction and thus the complaint time-barred under applicable limitation provisions. He further argued that the Complainant is not a "consumer" under the Act. The nature of services availed by the Complainant clearly falls within the realms of commercial trading activities rather than consumer services. The Complainant specifically availed services related to the trading of shares through the sub-brokership business operated by OP-1, which inherently constitutes commercial transactions, which are outside the scope of consumer protection laws. Significantly, the Complainant admitted that he engaged the services of the OPs specifically for the purpose of buying and trading in shares, thereby establishing the commercial nature of the relationship. He argued that OPs rely upon precedents B.K. Gyanchand Mittal v. Network Stock Booking, reported in 2015(2) C.P.J 535; Krishan Kumar Dubey v. Trustline Securities Ltd., reported in 2015(2) C.P.J 672, and Jaimala v. M/s. Reliance Portfolio Management, reported in 2016(1) CPJ 658. The learned

counsel for OPs argued that the State Commission of Punjab correctly analyzed and determined the legal issues in accordance with established jurisprudence. The State Commission's findings regarding both the limitation period and the jurisdictional question are legally sound and consistent with the settled position of law as enunciated by the Apex Court in consumer matters. The learned counsel for OPs assert that the complaint lacks merit on procedural and substantive grounds and should be dismissed.

11. We have examined pleadings and associated documents placed on record and rendered thoughtful consideration to the arguments advanced by the learned counsels for both the parties.

12. It is undisputed position that the OPs firm operates under a valid Share Broker License as a Sub-Broker of M/s Integrated Market Securities Ltd, establishing the commercial framework within which the transactions with respect to the Complainant were undertaken by OPs. The Complainant was well aware of the scope of functions of OPs and knowingly invested the stated amounts in stock trading. This is clear from both the complaint as well as evidence placed on record. The nature of these investments was undeniably commercial, being undertaken for the purpose of generating profits. Given that trading in shares is inherently conducted for commercial purposes, it is the contention of the OPs that the Complainant cannot be brought within



the definition of 'consumer' as prescribed under Section 2(d)(ii) of the Consumer Protection Act, thereby excluding the present dispute from the jurisdiction of consumer protection fora. Examination of the chronology of transactions reveals certain admissions in the pleadings of the Complainant which further underscores their commercial relationship. The Complainant himself has stated in the complaint that he deposited various amounts from 12.05.2006 to 19.01.2007. However, OPs contended that the last deposit by the Complainant with OP-1 was on 30.03.2007 and the trading account was opened on 03.11.2004, covering both individual and Hindu Undivided Family accounts. The evidence on record corroborates that the last amount deposited by him was on 19.01.2007. The extended duration of their business relationship from 2004 onwards raises significant questions about the Complainant in not reconciling the accounts with OP-1 at reasonable intervals determining the profits and losses from trading. In addition, OPs placed statements of accounts on record with respect to the trading of the Complainant, indicating that he received amounts in accordance with trading transactions conducted from time to time. These indicate that, contrary to his allegations, Rs.88,27,281.64 was outstanding from the Complainant to OPs. This amount stated to be outstanding from the Complainant contradicts his claims of being entitled to any refund or compensation. If there exists any accounting discrepancies or disputes between the parties regarding settlement of

trading account transactions, which are inherently commercial in nature, such matters fall within the exclusive jurisdiction of civil courts rather than consumer protection fora. The relationship between a share broker and an investor engaging in securities trading does not constitute a consumer and service provider relationship but rather represents a commercial arrangement governed by securities regulations and commercial law principles. Thus, the complaint under consumer protection law is not maintainable.

13. In view of the foregoing, after due consideration of the entire facts and circumstances of the case, we are of the considered view that the detailed and well reasoned orders of the State Commission in CC Nos. 73 and 74 of 2009 dated 01.11.2013 does not warrant any interference. The First Appeal Nos. 1089 and 1090 of 2014 are, therefore, dismissed.

14. The Complainant is, however, granted liberty to approach appropriate forum to address his grievances. Towards the same, for the time spent in progressing the Complainant and Appeal, he may invoke the provisions of Section 14 of the Limitation Act, 1963.

15. Considering the circumstances of the case, there shall be no order as to costs.

16. All pending Applications, if any, stand disposed of accordingly.

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(AVM J. RAJENDRA, AVSM VSM (Retd.)  
PRESIDING MEMBER

.....  
(SAROJ YADAV, J)  
MEMBER

/Megha