

Date of Filing: 23.03.2022

Date of Disposal: 30.09.2023

**BEFORE THE IV ADDL DISTRICT CONSUMER DISPUTES  
REDRESSAL COMMISSION BENGALURU**

**1<sup>ST</sup> FLOOR, BMTc, B-BLOCK, TTMC BUILDING, K.H ROAD,  
SHANTHINAGAR, BENGALURU - 560 027.**

**PRESENT:-****Hon'ble Sri.Ramachandra M.S., B.A., LL.B., President****Sri H.N.Shrinidhi, B.Com.,LL.B., Member****Smt.Nandini H Kumbhar, B.A., LL.B., LL.M., Member****ORDER****C.C.No.81/2022****Order dated this the 30<sup>th</sup> day of September 2023**

Sri Shantapa Raju,  
S/o Late Chowrappa,  
Aged about 62 years,  
R/a No.117, 2<sup>nd</sup> cross,  
1<sup>st</sup> Main road, K.G.Road,  
Bengaluru-560019  
**(Sri K.V.Harish, Adv.)**

**COMPLAINANT/S****- V/S -**

IndusInd Bank,  
The Manager,  
8<sup>th</sup> floor, Tower-1,  
One India Bull's Centre,  
Elahin Stone road,  
841, S.B. Marg,  
Mumbai-400013  
**Branch office at:**  
No.87, Bull temple road,  
Gavipuram Extension,



Basavanagudi, Bengaluru-560004 <b>(Sri S.M.Anees Ahamed, Adv.,)</b>	<b>OPPOSITE PARTY/S</b>
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### **ORDER**

***SRI RAMACHANDRA.M.S, PRESIDENT***

1. The complainants files a complaint with this Commission under Section 35 of the Consumer Protection Act of 2019 with a direction to OP to refund invest amount of Rs.16,16,780/- along with 18% p.a. interest from the date of claim till realization of full amount and Rs.25,000/- towards compensation towards damages for mental agony and physical suffering of the complainant and such other reliefs.

2. The following are the complaint's key facts:

This is the case of the complainant that the complainant has invested money in the OP bank under scheme Folio No.DSP132/110 and 03 another BSL Infra Advantage Scheme Unit. He has invested money in 04 investment accounts in the OP bank in

*TSB*

the below mentioned schemes and investment accounts and amount details is as follows:

- i) Folio No.DSP132/1120, BSL Advantage Scheme unit balance 320 investment amount Rs.5,09,500/- dt.15.12.2019.
- ii) Folio No.B123098/01/01, BSL Advantage Scheme unit balance 959.82 investment amount Rs.5,06,355/-.
- iii) Folio No.DS10223345/71 DSPM Fund Unit balance Rs.5,00,000/- investment amount Rs.5,10,000/- dt.10.08.2019.
- iv) Folio No.104538/675, BSL Advantage Scheme unit balance 223.81 investment amount Rs.90,925/- dt.15.12.2019

In all the complainant has invested Rs.16,16,780/- with OP bank and for the above investment the OP have also issued receipts.

3. The complainant submits that the complainant approached the OP bank and requested for refund of the amount invested by him, but the OP bank official have given negligent answer and the OP bank every month profit transferred to the complainant account. The complainant further submits that after repeated requests the OP bank have not refunded the invested amount. Due to the negligent act of the OP the



complainant got issued legal notice to the OP on 09.12.2021 calling upon them to refund the invested amount, but they give untenable reply to the notice. Aggrieved by the act and action of the OP, complainant was forced to initiate the present complaint by seeking relief as prayed in the complaint along with other reliefs.

4. Notice to OP-duly served, represented by counsel filed written version and affidavit.
5. The complainant filed chief-examination affidavit and also got marked annexure documents in support of their contention.
6. Heard arguments. The matter is reserved for order.
7. The points that arise for our consideration are;
  - 1) **Whether the Complainant prove that there is deficiency in service on the part of the OP bank by refusing to refund invested money and there by proved that he is entitled for the relief sought?**
  - 2) **What order?**



8. The findings on the above points are as under:

**Point No.1** : **Affirmative in part**  
**Point No.2** : **As per final order**

### **REASONS**

9. **POINT NO.1:-** The OP represented by counsel filed written version, wherein they have denied entire complaint allegations and also totally denied the entire transactions between the complainant and the OP. The OP further contended that they have shifted the burden of proof of the complaint fact on the complainant and they have also denied any deficiency in service on their part during the course of service and there by contending the same they pray for dismissal of the complaint for the above reasons.

10. The complainant filed chief examination affidavit by re-iterating complaint facts as follows:

The complainant has invested money in the OP bank under scheme Folio No.DSP132/110 and 03 other BSL Infra Advantage Scheme Unit Balance 320



investment amount of Rs.16,16,780/-. He has invested money in 4 investment accounts in the OP bank in the below mentioned schemes and investment accounts and amount details is as follows:

- i) Folio No.DSP132/1120, BSL Advantage Scheme unit balance 320 investment amount Rs.5,09,500/- dt.15.12.2019.
- ii) Folio No.B123098/01/01, BSL Advantage Scheme unit balance 959.82 investment amount Rs.5,06,355/-.
- iii) Folio No.DS10223345/71 DSPM Fund Unit balance Rs.5,00,000/- investment amount Rs.5,10,000/- dt.10.08.2019.
- iv) Folio No.104538/675, BSL Advantage Scheme unit balance 223.81 investment amount Rs.90,925/- dt.15.12.2019

In all the complainant has invested Rs.16,16,780/- with OP bank and for the above investment the OP have also issued receipts.

11. From the perusal of document No.1, which is produced by the complainant it clearly establish that the complainant has invested a sum of Rs.16,16,780/- in the OP bank under BSL Advantage Scheme unit in 04 accounts. As per the agreed terms of the investment which is entered between the complainant and the OP

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bank, the OP bank assured the complainant that they will pay higher rate of interest on the said investment and also permit the complainant to withdraw the principal investment amount along with interest at any time. Upon the assurance of OP and also as per the agreed terms, the complainant has invested said amount with the OP bank under the said scheme.

12. Further, from the facts of the complaint it is apparent that when the complainant has approached the OP bank for the withdrawal of the invested amount, the OP bank officials did not responded properly and thereby giving lame reason and they dodged the matter by assigning one or the other reasons and despite of all the efforts when the complainant failed to get the withdrawal of the investment amount from the OP bank, without any other alternative she has initiated the present complaint and sought for the relief of refund of the said amount along with assured interest and other reliefs.



13. From the perusal of complainant chief examination affidavit and also by considering the annexure documents which is produced by the complainant, it has been marked as annexure-C1 to C5. On perusal of these documents, it is very clear that the complainant has invested a total sum of Rs.16,16,780/- in 04 accounts in the said scheme on different dates. From the perusal of annexure-C1, this fact is crystal clear that the complainant has invested said amount in the OP bank and annexure-C2 is copy of bank pass book pertaining to the complainant account statement there is an entry that the complainant has transferred the investment amount from his account to investment account of the OP bank. From the perusal of all these annexure documents, the commission has opined that despite of receipt of investment amount from the complainant the OP has refused to pay the investment amount of the complainant and this act and omission of the OP bank amounts to unfair trade practice. It is apparent from the facts of the case that OP bank has rendered negligent and careless service and also failed





to discharge their duty as prudent banker. The refusal to refund or not refunding the invested amount to the complainant attracts deficient service on their part. For which OPs are held liable to refund the entire amount along with interest and other reliefs which is granted in the complaint.

14. In view of the above discussion and by considering the contention of both the parties and also by considering annexure documents produced by both the parties, the complaint deserves to be allowed as against OP. Accordingly, we answer **Point No.1 Partly in affirmative.**

15. **POINT NO.2:-** In the result, we passed the following:

### **ORDER**

1. The complaint is hereby allowed in part.
2. The OPs(and also branch) are directed to pay invested amount of Rs.16,16,780/- along with interest at 10% P.A. from the date of last



payment till entire payment is made to the complainant.

3. The OPs (and also branch) are further directed to pay compensation of Rs.1,00,000/- for deficiency in service and Rs.10,000/- towards cost of litigation.

4. Furnish free copy of this order to both the parties.

(Dictated to the Stenographer, got it transcribed, typed by him and corrected by me, then pronounced in the Open Commission on 30<sup>th</sup> September 2023)

  
(RAMACHANDRA M.S.)  
PRESIDENT

  
(NANDINI H KUMBHAR)  
MEMBER

  
(SHRINIDHI.H.N)  
MEMBER

**Witness examined on behalf of the complainant by way of affidavit:** Sri Shantapa Raju-who being the complainant

**Documents produced by the complainant:**

1.	Ann.1: Copy of Letter issued by OP bank
2.	Ann.2: Copy of Bank pass book
3.	Ann.3: Copy of Legal notice dt.09.12.2021
4.	Ann.4: Postal Receipt & acknowledgement
5.	Ann.5: Copy of Reply notice



**Witness examined on behalf of the OP by way of affidavit:** Sri Binoy.V Nath- Who being the Authorized Representative and Branch Manager of OP.

**Documents produced by the OP:**

1.	Doc-1: Copy of Authorization Letter
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**(RAMACHANDRA M.S.)**  
**PRESIDENT**

  
**(NANDINI H KUMBHAR)**  
**MEMBER**

  
**(SHRINIDHI.H.N)**  
**MEMBER**

