

**OFFICE OF THE ADJUDICATING OFFICER,
GOVERNMENT OF GUJARAT,
SCIENCE & TECHNOLOGY DEPARTMENT,
Block No: 7, 5th Floor, Sardar Patel Bhavan, Sachivalaya, Gandhinagar.**

Special Cavil Complaint No: 66

Date of Decision:17/06/ 2019

IN THE MATTER OF:

To,

Shri Deepak GaneshKumar Agarwal,

Representing M/s Vinayak Corporation,

A-F-3, Krishna Complex, Sarkhej Sanand Highway, Sarkhej-382210

Ahmedabad, Gujarat

Vs

1) The Branch Manager,

Oriental Bank of Commerce (OBC),

G-2, Samdesh Complex, C.G. Road,

Ahmedabad-380009, Gujarat

2) The Legal Head, M/s Vodafone Idea Limited

Vodafone Idea House,

Building-A, Corporate Road, Prahladnagar,

Off. S.G.Highway, Ahmedabad-380001

3) The Branch Manager,

State Bank of India

PINKAL MORE, GARULIA MAIN ROAD, GARULIA,

24 PARGANAS NORTH , WEST BENGAL- 743133

4) The Branch Manager,

State Bank of India

VILL,PO,PALLA,PS,BANGOAN,DIST

24 PARGANAS NORTH, WEST BENGAL-743133



- 5) **The Branch Manager,**
State Bank of India
SAUBHAGYA BHAVAN NEAR ALL INDIA RADIO, 19 BY C,
VIDHANSABHA MARG, LUCKNOW-226001, Uttar Pradesh
- 6) **The Branch Manager,**
State Bank of India
CHANDNI CHOWK, DELHI- 110006
- 7) **The Branch Manager,**
Axis Bank
KHASRA NO.1651/216 MOHALLA BHATTWALI BARHAT ROAD,
DEORIA UTTAR PRADESH- 274001
- 8) **The Branch Manager,**
Bank of Baroda
5-PT. CROSSING BRANCH, 4A,
BHABA NATH SEN STREET, CALCUTTA-700004
- 9) **The Branch Manager,**
Bank of Baroda
RAMNAGAR ROAD, PO BONGAON, DIST -24 PGS(N),
BONGAON, WEST BENGAL -743235
- 10) **The Branch Manager,**
CANARA Bank
CANARA BANK OPP SUKCHAR BAZAR, B T ROAD, SODEPUR,
DIST 24 PRAGANA(N) PANIHATI SODEPUR
WEST BENGAL-700115
- 11) **The Branch Manager,**
CANARA Bank
BANGOAN CITY DISTRICT NORTH 24 PARGGANAS
WEST BENGAL
- 12) **The Branch Manager,**
CANARA Bank, GROUND FLOOR, 269, SANTI KUTIR APARTMENT,
COURT MORE, BM ROAD NEAR GT ROAD, CHANDANNAGORE
DIST -HOOGLY, WEST BENGAL—712136





13)The Branch Manager,

CENTRAL BANK OF INDIA

17, B.T. ROAD, TITAGARH 24 PARGANAS NORTH
WEST BENGAL-, PIN 743133

14)The Branch Manager,

CORPORATION BANK

B/155,KESHAB SEN STREET, KOLKATA- 700009, WEST BENGAL

15)The Branch Manager,

HDFC BANK

HDFC BANK LIMITED 353, KABI GURU RADINDRA PATH, P.O. -
KANCHRAPRA,
DIST. - NORTH 24 KANCHRAPARA, WEST BENGAL-743145

16)The Branch Manager,

HDFC BANK

HDFC BANK LIMITED 353, KABI GURU RADINDRA PATH, P.O. -
KANCHRAPRA,
DIST. - NORTH 24 KANCHRAPARA, WEST BENGAL 743145

17)The Branch Manager,

HDFC BANK

438/21, KOTWALI ROAD, DEORIA, UTTAR PRADESH-274001

18)The Branch Manager,

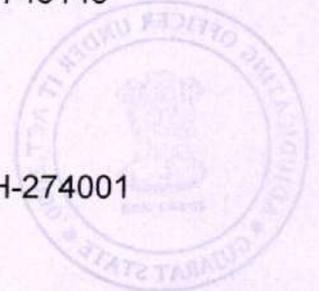
ICICI BANK

ICICI BANK LTD., SHOP NO. 23-27, RAJ COMPLEX,
JAMKHEDE- DAUND ROAD, SHRIGONDA - 413701,
AHMEDNAGAR DIST., MAHARASHTRA

19)The Branch Manager,

UCO BANK

25 GANESH CHANDRA AVENUE -UE BRANCH.
KOLKATA, WEST BENGAL





20) The Branch Manager,

Axis Bank Ltd,

Bombay Dyeing Mill Compound,

Pondurang Budhkar Marg, Worli,

Mumbai- 400025

MR. DHNANJAY DWIVEDI
ADJUDICATING OFFICER UNDER
INFORMATION TECHNOLOGY ACT, 2000

1. This matter has been filed by the petitioner under Section 43 and 43-A of the Information Technology Act, 2000.

2. The brief of the case as mentioned by the petitioner is as follows:

a) The complainant (Shri Deepak GaneshKumar Agarwal, representing from M/s Vinayak Corporation as Proprietor of M/s Vinayak Corporation) is a resident of Ahmedabad having his address at M/s Vinayak Corporation, B2/31 Amarpali Apartment Nava Sharda Mandir Road, Sukhipura, Paldi, Ahmedabad, Gujarat. The complainant is doing wholesale business of coal from above stated address with a name of M/s Vinayak Corporation since year 2004. The complainant is an authorized signatory of M/s Vinayak Corporation. The complainant's bank account is with maintained with the Oriental Bank of Commerce, C.G. Road, Ahmedabad for more than 13 years, who is the owner and operator of the C.C. (Cash Credit) account, account no: **10514021000040**.

b) The Complainant inter alia uses the net banking facility / service provided by the bank. That the account being a current account is used daily by the complainant in relation to the commercial transactions carried on by the complainant. The complainant has registered his mobile no 9099441111, having a SIM card of service provider Idea Cellular Limited for the purpose of receiving security alerts from the Bank. Whenever if any transactions



are carried out in the aforesaid bank account then all the security related alerts and other messages from the aforesaid bank including but not limited to OTPs, transaction summary and other messages are received on the complainant's aforesaid mobile number. The said number is in the name of complainant's other sister concern business "Shri Bohra Ganesh Ji Tradelink Private Limited."



c) On 27.01.2017 nearly around 6 PM in the evening while the complainant was at his home, his aforesaid mobile number having aforesaid idea sim card suddenly stopped working and the complainant had stopped receiving all types of mobile services from idea including but not limited to calling services, sms services & others. Immediately, the complainant contacted to the customer care of Idea and came to know that his sim card for his mobile no-9099441111 is active.

d) On 28.01.2017 at about 10:30 hrs in the morning, the complainant went to the store of Idea located at Anandnagar Road and Idea store authorized person informed the complainant that that his original sim card has been exchanged with a fresh duplicate sim card. The complainant were in deep shock as he had never given any such request for replacing sim card. There was no further support from the Idea store and therefore complainant immediately sent an email to the idea customer care through his email id nearly around 11:10am and informed that he had not made any application for his old sim card replacement and further requested to active his old sim card immediately by blocking the duplicate sim card issued to some unknown person by Idea.

e) Later on around 6:00 PM, idea informed the complainant that new sim card will be activated within two days. Thereafter, complainant again went to the Idea store situated at Anandnagar Road, Ahmedabad nearly around 4 PM and from there he came to know that his sim card has been replaced through some Idea Store named Kamal Communication situated at Nadiad using complainant's fake license document and fake letterhead of the complainant's firm Shri Bohra Ganeshji Tradelink Pvt. Ltd.

f) On 30.01.2017, the complainant reached to his office as per his routine schedule and accessed his aforesaid bank account through online banking facility on his computer for carrying out some business





transactions. To the utter-shock, the complainant came to know that 27 unauthorized online payment transactions amounting to Rs 1,00,50,000/- (Rupees One crore and fifty thousand only) had been made through online RTGS method by some unknown persons using online banking facilities of aforesaid bank account. The complainant immediately checked his email id deepak@vinayakcorporation.co to check any transaction alert emails of the Bank but unfortunately there was not a single email from the bank for intimation of aforesaid 27 unauthorized transactions. After that, complainant immediately sent an email to the bank on bm1051@obc.co.in from deepak@vinayakcorporation.co nearly around 11:38 am. Also, the Complainant immediately contacted his aforesaid Bank branch manager Mrs. Shukla Benerjee and instructed to block his all accounts including aforesaid targeted account.

- g) Further, while reviewing his bank account statements, the complainant came to know that on 27 different unauthorized online payment transactions were carried out on 30.01.2017 using online RTGS facility of the aforesaid bank account so as to carry out unauthorized transfer of money amounting to total of Rs 1, 00, 50, 000/- (Rupees One crore and fifty thousand only). Further, the complainant came to know that out of aforesaid Rs 1, 00, 50, 000/-, Rs 25, 50, 000/- (Rupees Twenty-Five Lakhs Fifty thousand only) came back and credited to his aforesaid account on the same day due to online RTGS errors. The remaining amount of Rs 75, 00, 000/- (Rupees Seventy-Five Lakhs only) were illegally credited to various unknown accounts of some fraudsters in different banks located across different states.
- h) Also, complainant had put his best efforts to freeze aforesaid unknown bank accounts and got success in freezing our some of such bank accounts. Total Rs 53, 76, 720/- (Rupees fifty three lakhs seventy six thousand seven hundred twenty only) are blocked in freezed accounts since 30/01/2017.
- i) That following are the details of the transactions by which monies in an authorized manner were transferred from the account to accounts of unknown persons via net banking facility and freezed accounts.



NAME	ACCOUNT NO	BANK	RTGS RETURN	FREEZ
MANOJ GAIN	20213963381	SBI		364004.
MANOJ GAIN	20213963381	SBI		25
RABINDAR KUMAR	35752199339	SBI		
RABINDAR KUMAR	35752199339	SBI		335058
RAJANSHING	20384802677	SBI		490008
SEEMA	33657503901	SBI	500000	
SEEMA	33657503901	SBI	250000	170152. 75
SHYAMAL MAJMUDAR	20237099965	SBI		
SHYAMAL MAJMUDAR	20237099965	SBI		303187. 7
ASHWIN KUMAR	91602004915 7543	AXIS		104000
RAHUL ENTERPRISE	69902000106 15	BANK OF BARODA	400000	
RAHUL ENTERPRISE	69902000106 15	BANK OF BARODA	800000	0
CHANDANMOND AL	40620100006 353	BANK OF BARODA		440206
ARINDAM SAHA	62411010008 13	CANARA		
ARINDAM SAHA	62411010008 13	CANARA		390000



CHANDAN MONADAL	49751010021 12	CANERA		200000
PREMSHAWA	49791360000 01	CANERA		339000
PREMSHAWA	49791360000 01	CANERA		
DENESH BASEFORE	3566951473	CENTREL BANK OF INDIA		250000
SPG TRADERS	29190160100 0137	CORPOARTION BANK		390103
BABOON JAAN	50100161717 058	HDFC	600000	0
SUDHA PANDAY	50100152638 812	HDFC		176000
ASHWIN KUMAR HDFC	50200021372 492	HDFC		197000
BABASAHEB GOPAL	19980150132 2	ICICI		700000
BABASAHEB POPAT 2	19980500441 0	ICICI		188000
PRKASH SINGH	21901100206 30	UCO		340000
			2550000	537672 0





j) Simultaneously, on 01.02.2017, First Information Report (FIR) was lodged by the DCB Crime, Ahmedabad. During the primary police investigation, it is found that many of aforesaid unknown bank accounts are not compliant with KYC verification rules. Also, some of aforesaid unknown bank account holders had rented their accounts to the fraudsters and received payments from such fraudsters for allowing them to use their accounts. The Complainant has made proper follow up but could not get any results for more than 7 months. Also, bank has stopped supporting the complainant but has not stopped charging its interest on aforesaid C.C. account @ 12% on amount of Rs 53, 76, 720/- and hence the complainant has decided to take this legal action.

k) Also, the complainant has noticed that respondent bank has completely failed to follow RBI guidelines for internet banking transactions and related security. Further, complainant has observed that respondent mobile service provider Idea has also failed to follow norms / regulations / guidelines related to proper and effective subscriber verification.

3. This matter has been filed by the petitioner under Section 43 and 43-A of the Information Technology Act, 2000 to this office for the aforesaid case.

4. The matter was heard on dated 03.11.2017, 02.02.2018, 09.03.2018, 06.07.2018, 31.08.2018, 28.09.2018, 16.11.2018, 21.12.2018, 01.02.2019 and 08.03.2019.

5. In the hearing held on 03.11.2017 and as per power vested in Adjudicating Officer under IT Act Rules, 2003 notified by the Central Government on 17th March 2003, it was decided to issue interim order to banks with instructed to not to allow any transactions from the Account Numbers (mentioned in i of para (2)) vide interim order dated 08.11.2017 and also instructed to share KYC information in respect of each of the accounts (mentioned in i of para (2)).

6. In the hearing held on 02.02.2018 and with reference to the interim order dated 08.11.2017, banks (mentioned in i of para (2)) were asked to provide following details through letter dated 03.02.2018:

- What is total balance in the account mentioned in the interim order





- How much frozen amount in the account mentioned in the interim order
- Other than communication by policy, any order from court or any other authority?

Also M/s Idea Cellular Limited was asked to provide the details of "what due diligence they did and what is the current policy of the said matter"

7. With reference to the interim order dated 08.11.2017 and vide letter dated 03.02.2018, respective Banks i.e. State Bank of India and HDFC have submitted details of frozen amounts. The banks have not indicated any other hold or freeze order, other than the one at the behest of investigating police order.

8. In the hearing held on 09.03.2018, the Petitioner made a request to release the funds lying with the State Bank of India and HDFC bank as per the records provided by Banks. Therefore, in the interest of justice and to ensure that the Petitioner can use his own money, vide interim order dated 12.03.2018, the respondents State Bank of India and HDFC bank were directed to return the Petitioner's amount which was in accounts as mentioned in Interim Order dated 12.03.2018.

9. With reference to the interim order dated 08.11.2017 and letter dated 03.02.2018 respective Banks i.e. Axis Bank, Canara Bank and ICICI bank have submitted details of frozen amounts. The banks have clarified that except intimation by Police, no other authority has directed to place a hold on said amount, which are kept frozen.

10. In the hearing held on 06.07.2018, the Petitioner made a request to release the funds lying with the State Bank of India, Axis Bank, Canara Bank and ICICI bank as per the records provided by the banks. Therefore, in the interest of justice and to ensure that the Petitioner can use his own money, vide interim order dated 09.07.2018, the respondents State Bank of India, Axis Bank, Canara Bank and ICICI Bank were directed to return / remit the Petitioner's amount which was in accounts as mentioned in Interim Order dated 09.07.2018.

11. With reference to the interim order dated 08.11.2017 and vide letter dated 03.02.2018, respective Banks i.e. HDFC Bank, Central Bank of India, UCO Bank have submitted the details of frozen amounts and KYC details of the unknown persons. HDFC Bank The banks have not indicated any other hold or freeze order, other than the one at the behest of investigating police order.

12. In the hearing held on 28.09.2018 and with reference the documents shared by HDFC Bank, Central Bank of India and UCO Bank, it was decided to issue notices to Shri Rattan Das (Account holder, UCO Bank), Smt. Sudha Pandey (Account holder, HDFC Bank) and Shri Dinesh Basfore (Account holder, Central Bank of India) for appearing personally in this office and also sent copies to respective banks along with instructed not to allow any withdrawal from respective accounts of above mentioned account holders. Notices issued to Shri Dinesh Basfore, Shri Rattan Das and Smt. Sudha Pandey have returned unserved due to lack of sufficient address / not staying in that village.

13. In the hearing held on 16.11.2018, Advocate for M/s Idea Cellular Limited has informed that as Idea Cellular is now merge with Vodafone so it was requested by Idea Cellular Limited to serve the notices in the name of M/s Vodafone Idea Limited instead of M/s Idea Cellular Limited and the request was accepted.

14. In the hearing held on 16.11.2018, the Petitioner made a request to release the funds lying with the Central Bank of India and HDFC Bank. Banks have clarified that except intimation by Police/ Cyber Crime Department, no other authority has directed to place a hold on said amount, which are kept frozen. Therefore, in the interest of justice and to ensure that the Petitioner can use his own money, vide interim order dated 07.12.2018, the respondents Central Bank of India and HDFC Bank were directed to return / remit the Petitioner's amount which was in accounts as mentioned in Interim Order dated 07.12.2018

15. In the hearing held on 21.12.2018, the Petitioner made a request to release the funds lying with the UCO Bank. Bank had clarified that "there is no order from court or any other authority communicated to bank to keep the account frozen.". Therefore, in the interest of justice and to ensure that the Petitioner can use his own money, vide interim order dated 27.12.2018, the respondent UCO Bank was directed to return / remit the Petitioner's amount which was in accounts as mentioned in Interim Order dated 27.12.2018.

16. In the hearing held on 16.11.2018, representative of M/s Idea Limited informed the scheme of arrangement for merger with Vodafone Limited. Accordingly, change in respondent name as "M/s Vodafone Idea Limited" was taken on record with consent of all parties. M/s Vodafone Idea Limited has submitted the affidavit in reply on 21.12.2018 along with documents of SIM Replacement Process (EKYC / RV Customers), SIM Replacement Process (Non EKYC / RV Customers), SIM Replacement Process and



Service Centre Customer Validation Guidelines with validation parameters for service centre. M/s Vodafone Idea Limited has also submitted the Scope of Work of franchise.

17. In the hearing held on 01.02.2019, M/s Vodafone Idea Limited was asked to provide details of following with respect of SIM Card:

- While issuing the duplicate SIM card to the franchisees whether the company does the sampling / audit of the same or not?
- If yes, then upto what percentage the same is being done?

18. In the hearing held on 01.02.2019, Advocate of the UCO bank has mentioned that the amount was remitted but transaction failed due to the account of the petitioner was closed. The Petitioner informed that account of Oriental Bank of Commerce was closed and the petitioner also made a written submission in this regard vide letter dated 01.02.2019. The Petitioner made a request to release the funds lying with the Central Bank of India, HDFC Bank and UCO bank in The Gujrat State Co-operative Bank Limited. Therefore, in the interest of justice and ensure that the petitioner can use his own money, vide the interim order dated 05.02.2019, the respondents Central Bank of India, HDFC Bank and UCO bank were directed to return / remit the Petitioner's amount (to the Petitioner's account: The Gujarat State Co-operative Bank Limited, Ahmedabad) which was in accounts as mentioned in Interim Order dated 05.02.2019.

19. This office has received a Demand Draft of Rs 1, 82, 237/- received dated 27.02.2019 from Deoria Branch of HDFC Bank in the name of "Shri Deepak GaneshKumar Agarwal".

20. In the hearing held on 08.03.2019, with reference to the para 19 and in the context of the interim order dated 05.02.2019, it was ordered that the Demand Draft be handed over to the Petitioner (Shri Deepak Agrawal) who was present in person. And it was decided that Mr. Deepak Agrawal has to deposit it in account of the M/s Vinayak Corporation and submit a copy of the deposit slip. In the hearing held on 08.03.2019, the Petitioner had informed that he had received all the frozen money from the banks mentioned in (i) of para 2.

21. In the hearing held on 08.03.2019 and with reference to the para (17), M/s Vodafone Idea Limited had submitted the following reply with respect to the queries asked to M/s Vodafone Idea Limited:



- The Agency would do the complete activity of approval / rejection of SIM ex-matching with existing documents and photo
- The check is with the POI for tallying the name mentioned in POI same with Customer (Middle name is optional)
- The agency scope includes the approval or rejection based on the above checks and no editing can be done.
- 5% Audit is done by VIL Employee next day.

22. A summary of the complaint made and the process undertaken by the office of the Adjudicating Officer makes it clear that as a part of the event an amount of Rs. 1,00,50,000/- was transferred from the account of the complainant through 26 different transactions, of which five transactions totalling to an amount of Rs. 25,50,000/- had failed and accordingly, the money was credited back to the account. Of the remaining transferred amount of Rs. 75/- lakh, an amount of Rs. 21,23,280/- was withdrawn from different transferred accounts at different ATM locations and remaining amount of Rs. 53,76,720/- was put on hold at respective bank accounts, based on the communications made by the Police Officers from Ahmedabad DCB Crime Police Station. It is also apparent that subsequent to the filing of the police complaint and during the pendency of the matter with the Adjudicating Officer, no court process was initiated and therefore, no further order by any competent legal authority was made, regarding attachment or seizure of funds.

23. As has been captured as part of the proceedings, upon verification of the KYC process, after service of notice to the account-holder of the respective accounts and upon return receipt of such notice without service, and upon satisfaction that the bank accounts were opened with a motive to commit fraud and as the whereabouts of the account-holders are not known and the persons behind committing of the fraudulent transactions could not be traced; through a series of orders, in all such cases, amounts within the limits of the transferred amounts from the complainant's accounts, as against the available frozen amount was refunded back to the complainant as this was his own money.

24. Of the remaining amount of Rs. 21,23,280/- which has actually been consumed through multiple ATM transactions, it would not be within the reasonable resources at the disposal of the Adjudicating Officer nor would be within the legal competence to



chase the fraudster(s) and recover such amount. For this part, the complainant is at liberty to pursue alternate legal remedies available to him.

25. With the status in relation to the money transferred out of his account as above, the next question would be the responsibility of the Oriental Bank of Commerce, of the Idea Cellular Ltd. (now Vodafone Idea Ltd.) and of multiple banks to which the amount was fraudulently transferred and despite the banks having carried out KYC process, whereabouts of the account-holders are not available.

26. So far as the responsibility of Oriental Bank of Commerce is concerned, one cannot attribute any responsibility to its negligence or its failure. Not only that the bank did not default in any of its responsibility, but also facilitated the complainant by providing relevant information in relation to the alleged transactions.

27. Insofar as imposing any penalty on all other banks or any of such banks for being lax in enforcing the KYC norms is concerned, it seems that all the banks in one respect or other were wanting in enforcing the KYC norms. While lacs of rupees were moved to such accounts, operators of such accounts are not traceable at the addresses which are there in the KYC. Had it been one or two banks, it would have been possible to look at it in isolation and fix accountability of such specific banks. However, in this case, it is nine banks across 17 accounts and 17 different branches. It comes out more of a systemic failure than the failure of individual branch or its managerial staff. Besides, in fixing the responsibility, the negligence in respect of lack of KYC compliance does not pass the test of proximity. Said accounts were opened significantly before the actual transactions happened. However, as the lax enforcement of KYC norms resulted in substantial loss to the complainant, it is necessary to fix the systemic deficiencies and also create mechanism for grievance redressal for victims of such online frauds. Given that such attempts of identity theft / stealing the user credentials will happen unabated, money from net-banking accounts will be moved through such fraudulent transactions, it would be prudent for the RBI to work out a mechanism for an effective grievance redressal system which can track transactions in real time and, pending verification, upon a complaint, put on hold transactions across the banking system in India. It would suffice to pass on a set of complainant's complaint along with this order to the RBI with a request to create such a facility.



28. This leaves third party to the transaction viz. M/s Idea Cellular Ltd. and now the M/s Vodafone Idea Ltd. In my capacity as Adjudicating Officer, this is not the first case wherein the complainant's sim card was inactivated and a duplicate card was issued which allowed fraudster to breach the second layer of two factor authentication for the net-banking. Incidentally for the sake of mentioning here, in all such cases, the sim cards were issued by M/s Idea Cellular Ltd. I understand the possibility that people which had sim card from other cell companies might have faced similar fraud and yet chose not to represent to the Adjudicating Officer. Nonetheless, given the gravity of the complaint in the present case and given the feedback in relation to other cases in which the sim provided by Idea Cellular Ltd. was either cloned or a duplicate sim was given, I had felt it necessary to instruct, during the course of proceedings, M/s Idea Cellular Ltd. to strengthen their internal processes in relation to issuance of duplicate sims. I want to put on record my appreciation for response shown by M/s Idea Cellular Ltd. in terms of a new policy which not only strengthens the KYC requirements but also has additional checks and balances in terms of 5% audit of all sim change request undertaken by franchises to be done by Idea Cellular Ltd. and delayed activation of the SMS facility in the context of the OTP based authentication. It would be appropriate that similar policy is brought in by other Cellular Operators also so that OTP compromise through sim change can be prevented. Given the consideration for any IP ownership that M/s Idea Cellular Ltd. may have in relation to this policy, I find it more appropriate to direct M/s Vodafone Idea Ltd. to share this policy with appropriate redaction in relation to any IP related content with other Cellular Service Providers to bring additional safeguards in their respective policies. While appreciating internal process changes that M/s Vodafone Idea Ltd. has brought in, I still cannot ignore the fact that concerned franchisee working under the trust of M/s Idea Ltd., issued duplicate sim to unauthorised person which resulted in all these unauthorised transactions causing loss of Rs. 21.23 lacs to the complainant (after recovery of remaining amount). If the franchisee of M/s Idea Cellular Ltd. had been more diligent in verifying identity of the person seeking the duplicate sim, this loss could have been avoided. I also consider the fact that this negligence on the part of franchisee of M/s Idea Cellular Ltd. has resulted in compromise of the OTP based authentication. It does not absolve the complainant from his negligence in compromising his own net-banking user ID and the password. In above context, I think a fair penalty under the provisions of section 43A of the Information Technology Act, 2000, of Rs. 2/- lakh on the respondent M/s Idea Cellular Ltd. now Vodafone Idea Ltd. would be just and appropriate. Accordingly, M/s Vodafone Idea Ltd. is directed to pay Rs. 2/- lakh as penalty to the complainant within a period of 30 days from the date of this order.

Accordingly, the following orders:

ORDER

- i. M/s Vodafone Idea Ltd. will pay Rs. 2/- lakh as penalty under section 43A of the Information Technology Act, 2000, to the complainant within 30 days.
- ii. M/s Vodafone Idea Ltd. will share its policy in relation to change of sim / issuance of duplicate sim with appropriate redaction to other Cellular Operators.
- iii. A copy of the complaint along with the copy of this order be sent to the RBI with a request to set up an appropriate institutional mechanism in accordance with the para-27 of this order.




17/6/19.
(Dhananjay Dwivedi)
Adjudicating Officer & Secretary,
Department of Science and Technology,
Government of Gujarat.