

**TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL
NEW DELHI**

DATED MAY 29, 2008

PETITION No.160 (C) OF 2007

MANTHAN BROADBAND SERVICES PVT. LTD.

6, Ganesh Chandra

Kolkata – 700 013

Through Mr. Sudip Ghosh,

Its Director

...PETITIONER

VERSUS

M/S. SHIVA ENTERPRISES

164/D1, Lake Gardens Block-C,

Flat No.10,

Kolkata – 700 045

...RESPONDENT

BEFORE:

HON'BLE MR.JUSTICE ARUN KUMAR, CHAIRPERSON

For Petitioner : Mr. Navin Chawla Advocate

For Respondent : None

ORDER

By this petition the petitioner has prayed for a direction against the respondent to pay to the petitioner a sum of Rs.2,85,549/- as on 31st July, 2007 alongwith interest @ 18% p.a. Further a prayer has been made that the respondent be restrained from taking signals of TV channels from any other broadcaster or MSO until it clears the dues of the petitioner. Notice of the petition was issued to the respondent. However, the respondent failed to appear in pursuance of the notice. Ultimately service was effected on the

respondent by way of publication in the newspapers including a vernacular paper circulated in the locality where the respondent is working. In spite of the said notice none appeared for respondent and the respondent was proceeded ex-parte vide order dated 21st April, 2008.

The petitioner is a Multi System Operator and supplies signals to the cable operators like the respondent who relay the signals further to the consumers. The respondent was a franchise cable operator affiliated to the petitioner. The petitioner has filed an affidavit by way of evidence stating therein that there was an agreement between the parties dated 3rd May, 2006 exhibited as **Exhibit PW 1/2**. The monthly subscription charges payable by the respondent to the petitioner worked out to Rs.26,025/- besides relevant taxes w.e.f. April, 2006.

It is stated in the affidavit that regular invoices were being raised by the petitioner against the respondent which were being sent to the respondent for payment. Copies of the invoices are exhibited as **Exhibit PW 1/3 to PW 1/17**. Courier receipts evidencing delivery of the same to the respondent are exhibited as **Exhibit PW1/18 to PW 1/23**. It is stated that the respondent was irregular in making payments of the subscription charges. Some adhoc payments were made for which receipts were issued. Copies of the receipts issued to the respondent for the payments made by him are exhibited as **Exhibit PW 1/25 to PW 1/28** at page 37 to 40. As on 31st July, 2007, a sum of Rs.2,85,549/- had become due from the respondent to the petitioner. A copy of the statement of account showing the aforesaid due is exhibited as **Exhibit PW 1/24**. Petitioner says that copy of statement of account is based on its books of account which are maintained in its ordinary course of business. In spite of repeated requests of the petitioner, the respondent has failed to pay the said amount. A notice dated 2nd April, 2007 calling upon the respondent to clear its dues is stated to have been issued by the petitioner claiming the said amount. Copy of the

notice is exhibited as **Exhibit PW 1/29**. Proof of service of notice on the respondent however, is not forthcoming. In any case proof of delivery of invoices to respondent is there. As per the case of the petitioner the respondent has shifted to another MSO and is taking signals from it without clearing the dues of the petitioner. The respondent must pay for the supply of signals which it has been receiving.

In view of the above facts, in my view the petitioner has established its case for recovery of Rs.2,85,549/- as on 31st July, 2007. I pass a direction against the respondent for payment of the said amount to the petitioner. The respondent will also be liable to pay interest @ 12% p.a. w.e.f. 1st August, 2007 till date of payment.

Petition stands disposed of.

.....J
[Arun Kumar]
Chairperson