

TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL
NEW DELHI

Dated 16th August, 2011

M.A. No.115 of 2011 in E.A. No.3 of 2011

IN

Petition No.27 (C) of 2010

Den Networks Limited

Petitioner

Vs.

Multi Vision Network

Respondent

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M.A. No.116 of 2011 in E.A. No.4 of 2011

IN

Petition No.200(C) of 2008

Den Network Limited

Petitioner

Vs.

Multi Vision Network

Respondent

BEFORE:

HON'BLE MR.JUSTICE S.B.SINHA, CHAIRPERSON

For Petitioner (decree holder) : Mr. Vibhav Srivastava, Advocate
Ms. Prabhjot Kaur, Advocate

For Respondent : Mr. Navin Chawla, Advocate
(Judgment Debtor) Mr. Sharath Sampath, Advocate

JUDGMENT

S.B. SINHA

Mr. Navin Chawla, learned counsel appearing on behalf of the Judgment Debtor would contend that having regard to the decision of this Tribunal in Tata Teleservices Ltd. (Maharashtra) Vs. Union of India (Petition No.12 of 2002), this Tribunal having held that no ad-valorem Court Fee can be levied by this Tribunal on its administrative side, the Judgment Debtor could not have been saddled with any costs/including the amount of Court Fee.

2. It is true that in the aforementioned judgment, this Tribunal has held that no ad-valorem Court Fee could be levied by this Tribunal by an administrative order.

It is, however, not in dispute that the decree-holder had paid ad-valorem Court Fee in terms of the rules framed by this Tribunal. The two petitions filed by the decree holder herein have been allowed with costs. The decrees have been prepared accordingly.

3. The decree holder, in our opinion, is entitled to execute the decree as it stands. The Judgment Debtor, in our considered opinion, cannot say that it would not pay a part of the decree only because in another matter ad-valorem Court Fee has been found to be not payable.

4. The Judgment Debtor has filed an objection in terms of the Section 47 of the Code of Civil Procedure. In terms of the aforementioned provision, the question which could be raised and determined would relate only to execution, discharging and satisfaction of decree. No other contention can be raised or permitted to be raised.

It is not in dispute that the decree drawn up by this Tribunal includes the costs incurred by the decree holder including the Court Fee paid by it. It is for the decree holder, on the basis of the judgment, to pray for refund of the Court Fee which will have to be considered on its own merit.

A Judgment Debtor on that premise cannot refuse to pay the costs actually incurred by the decree holder, as the same does not pertain to execution discharge or satisfaction of the decree.

5. The Judgment Debtor preferred an appeal before the Supreme Court of India. The said appeals have been dismissed.

The orders passed by this Tribunal, therefore, merged with the order of the Supreme Court of India. The decree being an executable one in terms of Sub-section (i) of Section 19 of the Telecom Regulatory Authority of India Act, 1997, I am of the opinion that the aforementioned objection on the part of the Judgment Debtor has no legal force.

..... J
(S.B. Sinha)
Chairperson

rkc