

TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL

NEW DELHI

Dated : 17.11.2011

Petition No.278 (C)/2011

Neo Sports Broadcast Pvt. Ltd., New Delhi

... Petitioner

Vs.

Shabna Sat TV Network Systems, Pondicheery

... Respondent

BEFORE:

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

HON'BLE MR.P.K. RASTOGI, MEMBER

For Petitioner : Mr.Vikram Mehta, Advocate

For Respondent : None

J U D G M E N T

The petitioner is a producer of the channels Neo Cricket and Neo Sports. The respondent is a Multi Service Operator (MSO).

The parties hereto entered into a subscription agreement on or about 20.8.2008 for the period 5.3.2008 to 4.3.2009. In terms of the said agreement the subscription fee payable to the petitioner by the respondent was a sum of Rs.20,488/- per month exclusive of taxes.

The said agreement was renewed for the period 5.3.2009 and 4.3.2010 as well as for the period 5.3.2010 and 4.3.2011; wherefor the amount of subscription fee payable was Rs.35,000/- p.m.

The said agreement was entered into in respect of the `territory' known as Pillai Thattam, Pondicherry.

Pursuant thereto or in furtherance thereof invoices were raised and served upon the respondent from a perusal whereof it appears that not only the amount of monthly subscription fee but also the

amount outstanding in the concerned month had also been mentioned therein.

The petitioner issued a notice to the respondent on or about 2.8.2010 asking it to pay a sum of Rs.1,70,834/- only. However, from the statement of accounts which has been filed by the petitioner, it appears that the respondent has paid a sum of Rs.35,000/- on or about 2.8.2010.

A legal notice was served on behalf of the petitioner upon the respondent on or about 11.3.2011, whereby and whereunder it was called upon to pay a sum of Rs.1,35,834/- only, besides interest.

In support of the petition, which has been filed before this Tribunal on or about 24.5.2011, an affidavit has been affirmed by one Mr.Srinivasan, Asst. Manager-Affiliate Accounts of the petitioner company.

He in his affidavit has proved the documents annexed with the petition besides a log report marked as Ex.PW-1/5, from a perusal whereof it appears that the IRD boxes supplied to the respondent herein had been activated on 5.3.2008 and the same had been deactivated on or about 10.11.2010.

Besides the said affidavit of Mr.Srinivasan, another affidavit has also been affirmed by one Mr.V. Saravanan, who was employed with M/s Maxim Media, the erstwhile distributor of channels of the petitioner herein stating that all the invoices raised on the respondent for the period 1.4.2008 to 31.8.2010 had been delivered by him to the respondent.

The respondent despite service of notice has not appeared. The matter was set down for ex-parte hearing by an order dated 20.9.2011. The Registry as also the learned counsel for the petitioner informed the respondent about the said date fixed. The petitioner as noticed heretobefore has filed a statement of accounts for the period 1.4.2008 and 2.8.2010.

The said account according to Mr.Srinivasan was being maintained in ordinary course of business. Having regard to the deposition of the said witnesses, we are of the opinion that the petitioner is entitled to a decree for the aforementioned sum of Rs.1,35,834/-.

Keeping in view the statements made in the petition, the affidavits of the aforementioned witnesses as also the documents

annexed with the petition and the said log report, we are satisfied that the petitioner has made out a case for passing of a decree for a sum of Rs.1,35,834/- as against the respondent.

However, we are of the opinion that in the facts and circumstances of this case interest of justice shall be sub-served if in place and in stead of 24% interest p.a. as claimed by the petitioner, interest @ 9% p.a. is allowed from the date the amount it fell due till realization. Pendente lite and future interest is also granted at the same rate.

The petition is allowed in part and to the extent mentioned hereinabove. However, in view of the fact that there is no appearance on behalf of the respondent, there shall be no order as to costs.

(S.B. Sinha)
Chairperson

(P.K. Rastogi)
Member

November 17, 2011

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