

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

**Dated 10<sup>th</sup> December, 2014**

**Petition No. 161 (C) of 2014**

M/s KAL Cables Pvt. Ltd., Chennai ...Petitioner

Versus

M/s Lakshmi Devi Cables, T.N. ...Respondent

**Petition No. 163 (C) of 2014**

M/s KAL Cables Pvt. Ltd., Chennai ...Petitioner

Versus

M/s Gopal Cable T.V., T.N. ...Respondent

**Petition No. 164 (C) of 2014**

M/s KAL Cables Pvt. Ltd., Chennai ...Petitioner

Versus

M/s Selvanyagi Gopal, T.N. ...Respondent

**Petition No. 167 (C) of 2014**

M/s KAL Cables Pvt. Ltd., Chennai ...Petitioner

Versus

M/s Sri Venkateswara Cable, T.N. ...Respondent

**BEFORE:**

**HON'BLE MR. JUSTICE AFTAB ALAM, CHAIRPERSON**  
**HON'BLE MR. KULDIP SINGH, MEMBER**

For Petitioner : Mr. Ajay Kumar, Advocate

For Respondents : None

**ORDER**

**By Aftab Alam, Chairperson** – M/s Kal Cables Pvt. Ltd., the petitioner, is a multi-system operator and distributor of television channels, operating in Coimbatore District of Tamil Nadu. It has filed this batch of 4 petitions, each against a sole proprietorship concern, operating as cable operator, from whom the petitioner seeks recovery of different sums of money as dues of monthly subscription fee.

None of the 4 cable operators, respondents in this batch of petitions, appeared despite service of notice. Hence, all the petitions in the batch were proceeded with *ex parte*.

As all the 4 cases are based on similar facts, with the exception of the amounts of money claimed and the dates of execution of the agreements, all the cases were heard together and are being disposed of by this common judgment. For the sake of convenience, the relevant

facts pertaining to the 4 cases are summarized in a tabular form which is reproduced below:

<b>Sr. No.</b>	<b>Petition no.</b>	<b>Name of the Respondent</b>	<b>Date of Agreement with page no.</b>	<b>Duration of Agreement</b>	<b>Date till the signals were supplied</b>	<b>The amount due as on 31.07.2011</b>	<b>State of account (pg. no.)</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>
1.	161(C)/14	Lakshmi Devi Cables	09.10.2010 (Pg. no.11)	7 years.	02.09.2011	Rs.1,79,030/-	Pg.75
2.	163(C)/14	Gopal Cable TV	21.10.2010 (Pg. no.11)	7 years.	02.09.2011	Rs.94,340/-	Pg.76
3.	164(C)/14	Selvanyagi Gopal	13.10.2010 (Pg. no.11)	7 years.	02.09.2011	Rs.3,48,092/-	Pg.73
4.	167(C)/14	Sri Venkateswara	25.10.2010 (Pg. no.11)	7 years.	02.09.2011	Rs.1,35,535/-	Pg.78

From the above table, it would appear that the subscription agreements with the 4 cable operators (respondents in the 4 cases) were executed on different dates in the year 2010. All the agreements were for a period of 7 years from the respective dates of their execution. Clause 1(c) of the agreement dealt with the subscription fee and in each case a certain sum multiplied by the number of respondent's subscribers was fixed as the monthly subscription fee. Clause 1(c) of the agreement in petition no.161(C) of 2014 is cited below by way of sample:

“That the Franchisee as of this date shall pay a sum of Rs.111/- per subscriber on the current declared highest pay channel points which is currently about 1240. The Franchise fee will be determined as per the latest declared/revised pay channel points at a given point of time on mutually agreeable terms.”

In all cases the petitioner terminated the supply of signals to the respondents on the same date, 2 September 2011 as on or about that

time, the State sector multi-system operator, ARASU Cable, came on the scene and pushed aside the private operators.

It is the case of the petitioner that the respondents were irregular in payment of their monthly subscription fees under their respective agreements and defaulted in the monthly payments and as a result arrears of subscription fee became due from them. The respondents did not pay their respective dues despite reminders and legal notices and hence, the petitioner was constrained to file these petitions before the Tribunal.

The petitioner in support of its case, examined one J.Rajesh, who is serving as General Manager-Operations with the petitioner company. In his deposition, he fully supported the petitioner's claims against all the respondents. He identified and proved the subscription agreements executed by the respondents in each of the cases. He also identified and proved the monthly invoices and the statements of accounts in each case. He also identified the reminders and the legal notices sent to the respondents. The witness's deposition in petition no.161(C) of 2014 is cited below by way of sample:

"4. That the petitioner company is a multi system operator in Coimbatore District of Tamil Nadu. The present petition has been filed by the petitioner through me, against the respondent (who is a cable operator) for the recovery of outstanding subscription

charges amounting to Rs.1,79,030/- which became due against the respondent on account of consuming signals from the petitioner's headend, in the areas mentioned in the schedule attached to the renewed franchisee agreement dated 09.10.2010 (Copy of this franchisee agreement dated 09.10.2010 is already on record and placed before this Tribunal as Annexure P-1 along with the petition. The same may be exhibit as Ex. PW1/2.

5. xxxxxxxx

6. That the respondent on 09.10.2010, entered into a franchisee Agreement/Subscription Agreement with the petitioner for distribution of petitioner's signals in the areas mentioned herein above, for the fixed subscriber base of 1240 @ Rs.111/- per subscriber per month. Thereby total monthly subscription charges were fixed as per this agreement was Rs.1,41,360/- per month. This relationship between the parties continued till 2<sup>nd</sup> September 2011. The petitioner continuously provided signals from its network to the respondent till 2<sup>nd</sup> September 2011. So, as per this agreement between the parties the respondent was mandated to pay to the petitioner, monthly subscription charges of Rs.1,41,360/- excluding taxes in advance, on or before 10<sup>th</sup> day of every calendar month, as per clause 1(b) of the Subscription Agreement dated 09.10.2010.

7. That on the basis of aforesaid agreement, the respondent continuously enjoyed the signals of TV channels from the petitioner network up to 2<sup>nd</sup> September, 2011 and during the period, the petitioner was continuously raising and serving invoices upon the respondent on regular basis. But the respondent was irregular in making payment of monthly subscription charges. (Copy of monthly invoices along with proof of service are enclosed with the petition as Annexure P-3 collectively. The same may be exhibit Ex. PW1/3(1) to PW1/3(56) respectively).

8. That the erratic and defaulted payment by the respondent has accumulated to an outstanding of Rs.1,79,030/- (Rs. One Lakh Seventy Nine Thousand and Thirty only). (Copy of statement of account is enclosed with the petition as Annexure P-4, the same may be exhibit as Ex.PW 1/4)."

He made same or similar statements in all the other cases.

The deposition of the witness remains unchallenged and there is no reason not to accept its veracity.

On a careful consideration of the materials on record and the evidence adduced by the petitioner, both documentary and oral, we accept the petitioner's claims and *ex parte* allow all the 4 petitions.

The office is directed to draw up separate decrees against each of the respondents in the sums mentioned in column 7 of the table given above. The decretal amounts will also carry interest @ 9% per annum from the date of filing of the petitions to the date of actual payment. Since cases are proceeded *ex parte*, there will be no order as to costs.

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**(Aftab Alam)**  
**Chairperson**

.....  
**(Kuldip Singh)**  
**Member**