

not appear despite service of notice and hence, the petition has proceeded against it *ex parte*.

According to the petitioner, the respondent had entered into a subscription agreement with M/s Zee Turner Ltd. for supply of channels distributed by it. The agreement was executed on 2 May 2010 but it was effected from 1 April 2010 and came to end on 31 March 2011. The subscription fees payable under the agreement was Rs.13,703/- (excluding taxes) per month.

It is further the case of the petitioner that the respondent had also executed a subscription agreement with M/s Star Den Media Services Pvt. Ltd. for supply of channels distributed by it. The agreement was executed on 22 June 2010 but it was effected from 1 January 2010 and came to end on 31 December of that year. The subscription fees payable under the agreement was Rs.10,460.32p (excluding taxes) per month.

It is further the case of the petitioner that on the basis of agreements executed with them, it took over the sets of channels previously controlled and distributed by M/s Zee Turner Ltd. and M/s Star Den Media Services Pvt. Ltd. with effect from July 2011. The petitioner's predecessors-in-interest also authorized it to collect their respective outstanding dues from all the MSOs, including the respondent.

It is further the case of the petitioner that from time to time, it raised invoices on the respondent for payment of monthly subscription fees as also for clearing the old outstanding dues payable to M/s Zee Turner Ltd. and M/s Star Den Media Services Pvt. Ltd. The respondent, however, failed to make payments against the invoices and as a result the outstanding against the respondent accumulated to Rs.81,247.20p. And for the recovery of that amount this petition is filed.

No reply is filed on behalf of the respondent to controvert the statements and allegations made in the petition.

The petitioner examined as its witness, one Amiya Ranjan Pati, working as Deputy General Manager in the company. The witness identified the subscription agreement between the respondent and Zee Turner dated 20 May 2010 which is marked as Exhibit PW-1/1. He also identified the respondent's subscription agreement with Star Den dated 22 June 2010 which is marked as Exhibit PW-1/2. He also identified three invoices raised by the petitioner on the respondent which are marked as Exhibit PW-1/3(colly.). He lastly identified the extracts from the ledger accounts showing the outstanding payable by the respondent which are marked as Exhibit PW-1/4(colly.).

There are altogether three invoices. The first invoiced dated 12 August 2011 is for the period 1 to 31 July 2011. The other two invoices are for the months of August and September 2011. At this stage, it needs to be recalled that the respondent's agreement with Star Den came to end on 31 December 2010 and with Zee Turner on 31 March 2011. In other words, the two subscription agreements between the respondent and the petitioner's predecessors-in-interest had already come to end before the petitioner stepped into their shoes on 1 July 2011. It is, therefore, not understandable how and under what circumstances the petitioner raised invoices against the respondent for the months of July, August and September 2011. There is absolutely no averment in the petition or any statement by the witness that though the subscription agreements had come to end on 31 December 2010 and 31 March 2011 respectively, the respondent was continued with the supply of signals of the channels distributed by Zee Turner and Star Den and the respondent in turn used those channels to its benefit by re-transmitting them to its subscribers.

We are sorry to observe that the petition filed by the petitioner is the most sketchy possible and so is the evidence, though remaining *ex parte*, adduced on its behalf.

The extracts from the ledger accounts reflect the position as per the invoices and are of no help in answering the question as indicated above.

The petition, on the face of it, is frivolous and is liable to be dismissed with costs. It is accordingly dismissed with costs quantified at Rs.50,000/- for wasting the time of the Tribunal. A receipt showing payment of cost (to be paid in the name of Drawing & Disbursing Officer, TDSAT) to the Mediation Centre of the Tribunal must be filed within a month from today.

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(Aftab Alam)
Chairperson

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(Kuldip Singh)
Member

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