

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

Dated 7th July 2014

Petition No.784(C) of 2012

Media Pro Enterprise India Pvt. Ltd.Petitioner

Versus

Joy TV(Sivaganga)Respondent

BEFORE:

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

For Petitioner : Mr. T.S. Bhatia, Advocate
Mr. Upender Thakur, Advocate
Mr. Yatin Grover, Advocate

For Respondent : None

ORDER

By Aftab Alam, Chairperson – The petitioner, M/s Media Pro Enterprise India Pvt. Ltd. is a Content Aggregator and Distributor of channels. It has filed this petition against the respondent, Joy TV, which is a local cable operator for recovery of Rs.1,27,896.91p as dues of monthly subscription fees as on 7 August 2012. The respondent did 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 an agreement with M/s Star Den Media Services Pvt. Ltd. for supply of channels distributed by it. The agreement was executed on 14 April 2011 but it was effected from 1 January 2011 and came to end on 31 December 2011. The subscription fees payable under the agreement was Rs.30,171.94p (excluding taxes) per month.

It is further the case of the petitioner that on the basis of agreement executed with Star Den, it took over the sets of channels previously controlled by Star Den from July 2011. Further, the petitioner's predecessor-in-interest also authorized it to collect its outstanding dues from all the MSOs, including the respondent.

It is also the case of the petitioner that after stepping into the shoes of its predecessor-in-interest, it raised invoices against the respondent for payment of monthly subscription fees as also the dues of the previous distributor. The respondent, however, failed to make payment against the invoices and as a result the outstanding against the respondent accumulated to Rs.1,27,896.91p as on 7 August 2012. 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 Star Den executed on 14 April 2011 for a monthly subscription fee of Rs.30,171.94p excluding taxes and the agreement is marked as Exhibit PW-1/1. The witness also identified the invoices sent by the petitioner to the respondent which are marked as Exhibit PW-1/2 (colly.). Lastly, the witness identified the extracts from the ledger accounts showing the outstanding payable by the respondent which are marked as Exhibit PW-1/3(colly.).

There are altogether three invoices. The first one, dated 12 August 2011, is for the month of July 2011. The invoiced amount is Rs.37,500.82p, out of which Rs.33,998.93p is the subscription charges and the rest are taxes; any previous outstanding is shown as nil. In the next invoice (dated 29 August 2011) for the month of August 2011, the previous invoiced amount (Rs.37,500.82p) is shown as the outstanding to which the subscription charges (Rs.33,998.93p) and taxes are added to arrive at the invoiced amount of Rs.75,001.64p. The next and the last invoice is dated 6 September 2011. It is for the month of September 2011. It shows the outstanding amount as Rs.75,001.64p to which Rs.33,998.83 is added as subscription fee for the month of September

2011 to arrive at the invoiced amount of Rs.1,12,502.46p. There is no invoice beyond September 2011.

Though the respondent's agreement with Star Den was due to come to end on 31 December 2011, from the record it appears that the petitioner raised invoices against the respondent only till 30 September 2011. The petitioner, therefore, cannot claim any monthly subscription fee beyond that date.

Further, it is to be noted that under the agreement the monthly subscription fee(excluding taxes) is Rs.30,171.94p (vide Annexure-C to the agreement between the respondent and Star Den). The same amount is mentioned as the monthly subscription fee (excluding taxes) in paragraph 5 of the petition. It is, therefore, not clear at all how and why in the three invoices raised by the petitioner, the higher amount of Rs.33,998.93p is shown as the monthly subscription fee to which the taxes are added to arrive at the figure of Rs.37,500.82p.

According to us, the petitioner is entitled to a decree against the respondent for subscription fees for the months of July, August and September 2011 at the rate of Rs.30,171.94p excluding taxes. In other words, the total sum of Rs.90,515.82p excluding taxes. It is ordered accordingly.

The petitioner is directed to calculate and submit in the office within two weeks from today, the amount of taxes payable on the aforesaid amount in order to facilitate the preparation of decree.

The office is directed to make a decree adding the amount of taxes to the sum of Rs.90,515.82p. The aggregate will be receivable by the petitioner along with interest @ 24% per annum (as provided in the agreement) from 1 October 2011 till 31 October 2012, the date of filing the petition before the Tribunal. The decretal amount shall further carry interest @ 9% per annum from the date of filing of the petition till realization of the decretal amount.

There will be no order as to costs.

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(Aftab Alam)
Chairperson

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(Kuldip Singh)
Member

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