

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

Dated 10th October, 2014

Petition No. 427 (C) of 2013

Taj Television (India) Pvt. Ltd.

.....Petitioner

Versus

USA Cablenet

.....Respondent

BEFORE:

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

For Petitioner : Mr. Upender Thakur, Advocate
for Singh & Singh Law Firm LLP

For Respondent : None

ORDER

By Aftab Alam, Chairperson – Taj Television (India) Pvt. Limited, the petitioner, is a broadcaster/content aggregator and acts as a distributor of sports channels viz. Ten Sports, Ten Golf, Ten HD, Ten Action, and Ten Cricket. It has filed this petition, against the respondent, a Multi System Operator from whom the petitioner seeks recovery of money as dues of monthly subscription fees. The respondent did not appear despite service of notice. Hence, the petition was proceeded *ex parte*.

According to the petitioner, it entered into a subscription agreement with the respondent on 1 April 2010 for supplying the signals of Zee Sports and Ten Sports on the fixed monthly subscription fee of Rs.1,47,660.00. The subscription agreement was due to come to end on 31 March 2011. The petitioner supplied the signals to the respondent in terms of the agreement but the respondent defaulted in payment of the monthly subscription fees and as a result the dues accumulated to the sum of Rs.6,19,036.00. The petitioner sent a demand notice to the respondent on 22 October 2013 but receiving no reply it issued the disconnection notices under clauses 4.1 and 4.3 of the Regulations on 19 November 2010 and finally disconnected the supply of the signals on 14 December 2010.

Copies of the subscription agreement, the monthly invoices, the demand notices, the disconnection notices and the statement of account are enclosed with the petition as annexures.

In support of its claims, the petitioner examined one Sandeep Panwar as a witness in the case. Mr. Panwar is the authorized signatory of the petitioner company and works in the petitioner company as Assistant Vice-President (Legal). He duly proved the documents produced by the petitioner in support of its claims against the respondent.

Mr. Panwar in his deposition stated as under:

“1. I state that the respondent had executed an Agreement with Taj Television (India) Pvt. Ltd. on 01.04.2010 which came into effect from 01.04.2010 to 31.03.2011 for a monthly subscription fee of Rs.1,47,660 + Service Tax for Ten Sports, Channel. Copy of the Agreement is exhibited as EXHIBIT PW1/1.

4. I state that the present petition is towards outstanding subscription fee for the operations of the respondent in the area of Thane (Ulhasnagar). I state that the respondent is liable to clear the outstanding dues of Rs.6,19,036/- (Rupees Six Lakhs Nineteen Thousand and Thirty Six only) as on 30.11.2010. I state that the signals to the network of the respondent were disconnected by the Petitioner in conformity with the Regulations on 14.12.2010. I state that the petitioner has always been maintaining a running account in respect of the aforesaid respondent's areas of operation/headend. A copy of the statement of account showing the total outstanding payable by the respondent is exhibited as EXHIBIT PW1/3.

5. I state that as a result of Respondent's deliberate inaction of not making payments on time, the petitioner on 19.11.2010 issued clause 4.1 notice for non-payment of outstanding dues of subscription fees and non-execution of subscription agreement which as on date was Rs.2,93,297.87. Copy of notice under clause 4.1 dated 19.11.2010 is exhibited as EXHIBIT PW1/4. I state that the petitioner on 19.11.2010, also issued clause 4.3 notice for non-payment of outstanding dues of subscription fees. Copies of notices under clause 4.3 dated 19.11.2010 are exhibited as EXHIBIT PW1/5 (Colly).

6. I state that after the issuance of the aforesaid letters/disconnection notices, further reminders/notices have also been sent by the petitioner to the respondent. I state that the present respondent has paid no heed thereto and continued to perpetuate its misconduct of being chronic and habitual defaulter. I state that the respondent has been defaulting in making payment despite further re-transmitting signals of petitioner's channels to its subscribers and receiving money in consideration from them until the deactivation by the petitioner on 14.12.2010.”

Apart from the above, Mr. Panwar quite interestingly went on to say in his deposition as under¹:

“2. I state that the petitioner has continued to provide supply of its TV channel signals to the network of the respondent **even after the expiry of the aforesaid subscription agreement(s) until the deactivation of the petitioner's network on 14.12.2010, only on the assurance of the respondent that it will continue to make payment towards monthly subscription fee and further, will come**

¹ The significance of this statement would be clear from the judgment in 5 other cases filed by the petitioner against different other respondents being petitions nos.428(C)/2013, 429(C), 430(C)/2013, 431(C)/2013 and 432(C)/2013.

forward for the negotiation to renew the agreement(s). I state that the petitioner has time to time raised invoices on the respondent not only for payment of monthly subscription fee but also for the payment towards old outstanding dues payable to the petitioner. Copies of invoices are exhibited as EXHIBIT PW 1/2 (Colly).”

The claim of the petitioner is fully supported by the subscription agreement duly executed by both sides and the statement of account maintained by the petitioner in ordinary course of its business which have been proved by the witness examined on its behalf.

In light of discussions made above, we accept the petitioner’s claims and allow the petition *ex parte*. The office is directed to draw up a decree against the respondent for the sum Rs.6,19,036.00. The decretal amount will also carry interest @ 10% per annum from the date of filing of the petition till the date of payment.

Since the case has proceeded *ex parte*, there will be no order as to costs.

.....
(Aftab Alam)
Chairperson

.....
(Kuldip Singh)
Member