

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

Dated 10th December, 2015

Petition No. 9 (C) of 2014

MSM Discovery Pvt. Ltd. ...Petitioner

Versus

City Cable Network, Chattisgarh ...Respondent

BEFORE:

HON'BLE MR. JUSTICE AFTAB ALAM, CHAIRPERSON

HON'BLE DR. KULDIP SINGH, MEMBER

HON'BLE MR. BIPIN BIHARI SRIVASTAVA, MEMBER

For Petitioner : Mr. Azmat Amanullah, Advocate

For Respondent : None

ORDER

By Aftab Alam, Chairperson – The petitioner, MSM Discovery Pvt. Ltd., is a company incorporated under the Companies Act 1956. It is a broadcaster of TV channels within the meaning of the Telecommunication (Broadcasting and Cable Services) Interconnection Regulations 2004 (the Regulations). It has filed this petition for recovery of Rs.3,99,095/- (exclusive of taxes), as dues of

subscription fees, from the respondent City Cable Networks, which is a multi-system operator (MSO).

According to the petitioner, on 14.08.2013 the respondent executed an interconnect agreement with it titled as “the affiliation agreement”. The agreement was for the period from 01.01.2013 to 31.12.2013. In terms of the agreement, the petitioner was to supply the signals of its TV channels to the respondent on payment of Rs.36,500/- exclusive of taxes (which came to Rs.41,011/- with taxes) as monthly subscription fee. The agreement also had a provision for interest on unpaid dues and in clause 2.5 it provided for interest on the unpaid dues @ 18% per annum for the entire period during which the default continued. It is the case of the petitioner that in terms of the agreement, it supplied the signals of its TV channels to the respondent from the date of commencement of the agreement.

It is further the case of the petitioner that the parties executed a supplementary agreement on 04.10.2013 by which the monthly subscription fee was enhanced with effect from 01.04.2013 to Rs.40,050/- exclusive of taxes (which came to Rs.45,000/-) until the expiry of the agreement on 31.12.2013.

According to the petitioner, in terms of the agreement it supplied its signals to the respondent and raised invoices for payment of the monthly subscription fee but the respondent defaulted in payment and as a result the dues of subscription fee

accumulated to Rs.3,99,095/-. As the respondent did not make payment despite reminders, the petitioner, after due notices as required by the Regulations finally disconnected the supply of signals on 13.11.2013.

The respondent did not appear despite service of notice and hence, the petition has proceeded *ex parte*.

The petitioner in support of its claim has examined one Vishal Kohli who worked as the Area Manager of the petitioner company as its witness. The witness fully supported the petitioner's case. He proved the interconnect agreement dated 14.08.2013 which was marked as Exhibit P1. He also proved the invoices that were collectively marked as Exhibit P2. He proved the disconnection notices issued under clauses 4.1 and 4.3 of the Regulations which were marked as Exhibits P3 and P4 respectively. He proved the statement of account which was marked as Exhibit P5 as also the legal notice that was marked as Exhibit P6. He finally proved the supplementary agreement dated 04.10.2013 which was marked as Exhibit P7.

The pleadings and evidences produced by the petitioner remain un-rebutted. There is, therefore, no reason not to accept the claim of the petitioner and to hold it entitled to recovery of Rs.3,99,095/- (exclusive of taxes). The office is directed to

make a decree accordingly. The decretal amount shall also carry interest @ 10% from the date of filing of the petition till the date of actual payment.

In the result, the petition is allowed but as it is heard ex parte, there will be no order as to costs.

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(AftabAlam)
Chairperson

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(Kuldip Singh)
Member

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(B.B. Srivastava)
Member

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