

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

Dated 1st July, 2015

Petition No.147(C) of 2014

MSM Discovery Pvt. Ltd.

.....Petitioner

Versus

Plaza Cable

.....Respondent

BEFORE:

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

For Petitioner

: Mr. Nittin Bhatia, Advocate

For Respondent

: None.

ORDER

By Aftab Alam, Chairperson – MSM Discovery Pvt. Ltd., the petitioner, is a broadcaster and it supplies its TV channels, for consideration, to MSOs for further distribution and re-transmission. It has filed this petition against, Plaza Cable, a sole proprietorship concern, operating as a multi-system operator, from whom the petitioner seeks recovery of Rs.2,07,574/- as dues of monthly subscription fees.

The respondent did not appear despite repeated notices served to it and hence, the petition was proceeded *ex parte*.

According to the petitioner, it had entered into a subscription agreement with the respondent on 3 August, 2012 for retransmission of its TV channels in the municipal limits of Barpeta Town on payment of an agreed lump sum amount of Rs.33,188/- (exclusive of taxes) as monthly subscription charges. The subscription agreement was for the period 01.01.2012 to 31.12.2012.

It is the case of the petitioner that the respondent was irregular in payment of its monthly subscription fee and defaulted in the monthly payments and as a result arrears of subscription fees amounting to Rs.1,76,500/- became due from it as on 31 October 2012. It is further the case of the petitioner that the respondent did not pay its dues despite repeated reminders and hence, left with no other option, the petitioner issued a notice dated 01.11.2012 under clause 4.1 of the Interconnect Regulations. However, the respondent chose not to respond to the said notice as well. The petitioner thereafter published public notices dated

02.11.2012 under clause 4.3 of the Regulations in the two leading local newspapers; viz (i) The Times of India (English) and (ii) Pratahkal (Regional). However, according to the petitioner, neither any payment nor any response was received from the respondent and therefore, the petitioner deactivated its signals to the respondent on 26.11.2012. The petitioner thereafter sent a legal notice dated 03.10.2013 to the respondent demanding its outstanding dues amounting to Rs.2,07,574/- but to no avail. Hence, the petitioner was constrained to file this petition before the Tribunal.

The petitioner in support of its case, examined one Hrishikesh Goswami, who is serving as Area Sales Manager with the petitioner company. In his deposition, he fully supported the petitioner's claim against the respondent. He identified and proved the subscription agreement executed by the respondent, which is marked as Exhibit PW-1/1. He also identified and proved copies of the monthly invoices raised by the petitioner against the respondent, which are marked as Exhibit PW-1/2(collectively). He identified and proved the notice dated 01.11.2012 issued under

clause 4.1 of the Interconnect Regulations along with its postal receipt, which is marked as Exhibit PW-1/3. He also identified and proved the public notices dated 02.11.2012 issued under clause 4.3 of the Interconnect Regulations, which are marked as Exhibit PW-1/4. Further, he identified and proved the legal notice dated 03.10.2013 sent to the respondent along with its postal receipt, which is marked as Exhibit PW-1/5. Finally, he identified and proved the statement of account, which is marked as Exhibit PW-1/6.

Some extracts from the witness's deposition in the case are as under:

"7. I say that the parties hereto have had a long standing business relationship and that the Respondent had been re-transmitting the signals of the Petitioner Company in terms of the various Subscription Agreements entered into between the parties. The Petitioner craves leave of this Hon'ble Tribunal to file the various subscription agreements entered into between the parties from time to time at a large stage, if required. The Petitioner states that the present dispute relates to the Subscription Agreement bearing reference no. 092174, vide which the Petitioner authorized the Respondent to re-transmit its signals in the Municipal limits of Barpeta Town. The Petitioner states that in terms of the said Subscription Agreement, the Respondent was liable to pay to the Petitioner an amount of Rs.33,188/- (Rupees Thirty Eight Thousand One Hundred and Eighty Eight) per month being the monthly subscription charges which, after adding taxes amounted to Rs.37,289/- (Rupees Thirty Seven Thousand Two Hundred and Eight Nine) per month. A copy of the Subscription Agreement, signed and executed by and

between the parties hereto is exhibited hereto as **Exhibit – PW-1/1(colly.)**.

8. I say that the Petitioner has been raising invoices on the Respondent on a monthly basis, in terms of the Subscription Agreement entered into between the parties. Copies of the monthly invoices addressed by the Petitioner for the period from January 1, 2012 to November 30, 2012 addressed by the Petitioner along with the proof of dispatch of the invoices for the periods from May 1, 2012 to November 30, 2102 are collectively exhibited hereto as **Exhibit – PW-1/2(Colly.)**

9. I say that the Respondent has, since the commencement of the term of the Agreement, continued to default on its obligations to pay to the Petitioner equated monthly installments of the agreed subscription fees on the respective due dates.

10. xxxxxxxxxxxxxxxx

11. xxxxxxxxxxxxxxxx

12. xxxxxxxxxxxxxxxx

13. I say that the Respondent however has, till date failed to clear the outstanding dues payable to the Petitioner and is liable to pay Rs.2,07,574/- (Rupees Two Lakhs Seven Thousand Five Hundred and Seventy Four).

15. I say that in view of the fact that the Respondent had failed to clear the outstanding subscription fees due and payable to the Petitioner, the Petitioner left with no other alternative left but to give effect to the public notice and disconnect the signals being provided to the Respondent. This disconnection of signals was done on November 26, 2012.

The case of the petitioner is fully supported by oral and documentary evidences that remain completely unchallenged and

uncontroverted before the Tribunal. There is, therefore, no reason not to accept the petitioner's claim.

We accordingly allow the petitioner's claim and hold the petitioner entitled to a decree for the sum of Rs.2,07,574/- along with interest @ 18% from 1 January 2013 to 14 October 2014, the date of filing of the petition before the Tribunal and @ 9% from 15 October 2014 till the date of realization.

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

.....
(Aftab Alam)
Chairperson

.....
(Kuldip Singh)
Member