

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

**Dated 31<sup>st</sup> July, 2015**

**R.A. No. 2 of 2015**  
**in**  
**Petition No. 320 of 2014**

Tech Mahindra Business Services Ltd.  
Mumbai

... Petitioner

Vs.

Union of India & Anr.

... Respondents

**BEFORE:**

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

For Petitioner : Mr.Meet Malhotra, Sr.Advocate  
Mr. Ravi S.S. Chauhan, Advocate  
Ms.Pallak Singh,Advocate

For Respondents : Mr.S.S.Shamshery,Advocate  
Ms.Aparajita Sharma, Advocate

**ORDER**

This application has been filed seeking review/  
modification/clarification of the judgment dated 1.7.2015 passed by the  
Tribunal in Petition No. 320 of 2014. The clarification is sought in regard to  
certain amount paid by the petitioner in the interim.

The operative part of the judgment is as under :

*“Though the petitioner claims that the bandwidth in question was*

*never used by it, even If the petitioner had taken the same for redundancy purpose from the same service provider that is M/s Tata Communications Ltd., it would have, at the most, paid the same amounts as paid for the actual bandwidth used by it. Therefore, in our view the interest of justice will be sub-served if the respondent was to calculate the loss assuming the same Year payments as made by the petitioner to M/s Tata Communications Ltd for the same bandwidth. For the period prior to the year 2010, the highest payment made for any year (Rs. 12,96,056/- for the year 2012) may be used for all the years. The license fee that M/s Tata Communications Ltd. would have paid on this amount may be taken as the loss of licensee fee. The respondent may charge an interest of 10% from the date such license fee would have become due.*

*We, therefore, direct the respondent to recalculate the demand in above terms and issue a fresh demand notice to the petitioner. The petitioner shall pay the same within fifteen days of its receipt.”*

Earlier the Tribunal vide interim order dated 24.07.2014 had asked the petitioner to deposit the principal amount of demand being Rs.2,07,25,176/-.

The relevant part of the interim order is as under :

*“Also heard Mr. Malhotra on the petitioner’s prayer for interim relief. Having regard to the facts and circumstances of the case, we think it would be appropriate to direct the petitioner to deposit the principal amount of penalty, amounting to Rs.2,07,25,176/- within two weeks from today. The deposit may be made before the TERM Cell of DoT in Mumbai.*

*Subject to the deposit of the principal amount of penalty, as directed above, the Union of India shall not take any coercive measures for realization of the balance amount.*

*It is made clear that the direction to make the deposit is without prejudice to the rights and contentions of the parties and will abide by the final outcome of this petition.”*

Heard Mr. Meet Malhotra, learned senior counsel appearing for the petitioner and Mr. Shamsbery, counsel appearing for the respondent.

On hearing the counsel, it transpires that the amount payable in terms of the judgment of the Tribunal dated 1.7.2015 is less than the amount already deposited vide interim order dated 24.7.2014.

As per the petitioner, the amount payable by it as calculated in terms of the judgment dated 1.7.2015 is to the tune of Rs. 6,84,318/- .

In view of the above the petitioner is entitled to a refund of the excess amount deposited by it. It is, accordingly, clarified as under :

The respondent is directed to verify the amount payable by the petitioner in terms of the said judgment within two weeks from today. The amount after verification shall be adjusted from the amount of Rs.

2,07,25,176/- already deposited with the Term Cell of the respondent in terms of the above said interim order. The balance amount after adjustment shall be refunded to the petitioner within a week thereafter.

The application is allowed to the above extent.

.....  
**(Aftab Alam)**  
**Chairperson**

.....  
**(Kuldip Singh)**  
**Member**

**/NC/**