

TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL  
NEW DELHI

Dated *2nd* June, 2016

M.A. No.17 of 2016 in  
Telecom Petition No.549 of 2015

Bharat Sanchar Nigam Ltd.

...Petitioner

Versus

Reliance Communication Ltd.

...Respondent

**BEFORE:**

**HON'BLE MR. JUSTICE AFTAB ALAM, CHAIRPERSON**  
**HON'BLE MR. B.B. SRIVASTAVA, MEMBER**

For Petitioner

: Ms. Maneesha Dhir, Advocate  
Mr. Abhishek Kumar, Advocate  
Mr. K. Vijay Kumar Advocate  
Mr. Ashwin Rakesh, Advocate

For Respondent

: Mr. Navin Chawla, Advocate  
Ms. Manali Singhal, Advocate  
Mr. Santosh Sachin, Advocate  
Mr. Anurup Narula, Advocate

**ORDER**

**By Aftab Alam, Chairperson** – This application (MA No.17 of 2016) is filed on behalf of the respondent for rejection of the petition under order 7 rule 11 of the Code of Civil Procedure 1908 on the ground that the claim of the petitioner is barred by limitation.

The petitioner has filed this petition for recovery of Rs.1,05,70,837/-, along with interest @ 24% per annum under clause 6.4.6 of the interconnect agreement between the two sides on the basis of the bills issued for international long distance(ILD) calls with tampered calling line identification (CLI). The matter relates to Karnataka circle and the bills that form the basis for the petitioner's claim are annexed with the petition as Annexure P-28 (colly). The first bill in this series (at page 99 of the brief) is dated 17 November 2004 and the last bill in the series (at page 113 of the brief) is dated 31 March 2005.

The petition has been filed before the Tribunal on 6 October 2015, that is to say almost 10 years after the issuance of the last bill in the series.

Mr. Chawla submits that the claim is plainly and hopelessly barred in light of the averments made in the petition and the materials enclosed with the petition in support of the claim. He also invited our attention to a recent decision of the Supreme Court dated 16 September 2015<sup>1</sup> that fully supports the respondent's contentions.

Ms. Maneesha Dhir, counsel for the petitioner submitted that in the facts and circumstances of the case, the limitation would commence to run only from 30 July 2013 when a joint meeting was held between the parties on the question of payment of the petitioner's dues and taken from that date the petition was filed within the time of limitation.

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<sup>1</sup> (2016) 1 SCC 363: BSNL Vs. Pawan Kumar Gupta

Ms.Dhir took us through a very large number of documents and materials. But those documents and materials have no bearing on the issue under consideration as those are internal correspondences between the different departments of the petitioner or letters from the petitioner to the DoT and such other communications. The only communication from the respondent or meetings in which the respondent took part are very few and none of those can be said to extend the period of limitation in any way.

The first letter on this issue is dated 5 April 2005 (at page 72 of the brief). In this letter, the respondent clearly repudiated any liability and asked the petitioner to cancel the bill. The relevant extract from the letter dated 5 April 2005 is as under:

“By considering the above facts into account, we hereby request you to kindly cancel the violation bills raised against the calls originated by grey market operators.”

About a year later, a meeting of the coordination committee was held on 16 March 2006, the minutes of which are at page 23 of the petitioner’s reply to the MA. From the minutes of the meeting, it appears that it was also attended by the respondent. The impugned bills were item no.2 in the meeting and in that regard the following note was taken:

**“2. ISD violation dues at D K TD**

M/s RIL intimated that it is a Grey Market violation. They have submitted address details to D K TD & vigilance Cell of DOT.

As this is October 2004 case, both BSNL & M/s RIL will pursue the case with Vigilance Cell of DOT in order to settle the issue.”

The Vigilance Wing by its letter of 28 June 2011 informed the petitioner that it had written to TERM Cell, Chennai and on oral enquiry, it was told by the ADG of the TERM Cell that they had not taken up the case for investigation or further action. The Vigilance Wing accordingly advised the petitioner that the issue may be resolved at the Regulation Cell's end with the available information. Then the petitioner once again took up the matter with the respondent and wrote letters demanding payment of the bill. In reply, there are three letters from the respondent. The first letter is dated 20 October 2011 (at page 87 of the brief) in which it repudiates any liability for payment of the bills in the most categorical and definite terms. The letter concludes by saying under:

“In view of the above, submissions and observations, we once again request BSNL DKTD and BSNL Karnataka to cancel the said CLI Violation Bills raised on us and withdraw the threat of PoI disconnection given to us.”

In the next two letters dated 16 March 2012 (at page 91 of the brief) and 2 May 2012 (at 92 of the brief) the respondent similarly requested for cancellation of the bills denying any liability for payment.

Finally, a joint meeting took place on 3 July 2013 (the minutes of which are at page 96 of the brief). In this meeting the stand of the respondent is recorded as under:

“M/s Reliance states that they have not committed any violation in respect of calls recorded in the violation bill. The representative of Reliance pleaded with BSNL Mangalore to close this long pending issue.”

We are unable to find in the above referred materials any semblance of admission on the part of the respondent or anything that might be considered to extend the period of limitation that clearly commenced from the dates of the bills and we are unable to see how the point of commencement of limitation be held to be 3 July 2013 as claimed on behalf of the petitioner.

Ms.Dhir relied upon a number of decisions<sup>2</sup> but we see no application of any of those decisions to the facts of this case.

In light of the discussions made above, we find that the objection raised on behalf of the respondent is valid and fit to be upheld. The petition filed by the petitioner and the claim raised therein is clearly barred by limitation.

The M.A. is accordingly allowed and the petition is rejected.

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(Aftab Alam)  
Chairperson

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(B.B. Srivastava)  
Member

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<sup>2</sup> (2007) 14 SCC 183; C. Natrajan Vs. Ashim Bai & Anr., (2005) 7 SCC 510; Popat And Kotecha Property Vs. State Bank of India Staff Association, (2006) 5 SCC 658; Balsaria Construction (P) Ltd. Vs. Hanuman Seva Trust & Ors., (2006) 4 SCC 658; Hari Shankar Singhania & Ors. Vs. Gaur Hari Singhania & Ors., (2006) 5 SCC 638; Ramesh B. Desai & Ors Vs. Bipin Vadilal Mehta & Ors., (2004) 11 SCC 456; I.S Synthetics Ltd. Vs. Fairgrowth Financial Services Ltd.