

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

Dated 2nd May, 2016

Broadcasting Petition No. 478 of 2015

UCN Cable Network Pvt. Ltd.

... Petitioner

Versus

Sai Prasad Media Pvt. Ltd.

...Respondent

BEFORE:

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

For Petitioner : Mr. Navin Chawla, Advocate
Mr. Anurup Narula, Advocate

For Respondent : None

ORDER

This petition has been filed by UCN Cable Network Pvt. Ltd., a company registered under the Companies Act, 1956, an established cable operator/Multi System Operator (MSO), engaged in the business of supplying, distributing/retransmitting Pay channels and FTA Channels of different broadcasters to

various customers including households through its distributors as well as its own cable channels.

The petitioner seeks recovery of an amount of Rs. 67,21,500/- along with interest @24% from the respondent, Sai Prasad Media Pvt. Ltd., a company incorporated under Companies Act, 1956 and engaged in managing the TV channel, News Express and a broadcaster within the meaning of the said term in the interconnect regulation.

The case of the petitioner is that it entered into an agreement dated 29.10.2012, with the respondent for the period 1.8.2012 to 30.7.2013 for carrying the latter's channel, News Express on its network. According to the petitioner, a fresh agreement dated 14.6.2014 was again executed between the petitioner and the respondent for the period 1.4.2014 to 31.3.2015. The consideration money for placement of the news channel ("News Express") was Rs. 75 Lakhs excluding applicable service tax. The petitioner has averred that it carried the channels from its network and placed them on the desired frequency as mentioned in the agreement; and raised regular invoices upon the respondent. However, the respondent in breach of the terms of the agreement did not make payment of the agreed amount; and the total outstanding as on 31.3.2015 amounted to Rs. 67,21,500/-. The petitioner has also submitted that under the previous agreement as well the respondent had defaulted to the extent of Rs. 93,63,328/-, due and payable to the petitioner till 31.3.2014. It has been stated that only in pursuance of a notice dated 5.3.2014, the respondent made a payment of Rs. 90,55,038/-, on 07 April, 2014. However, no

payment was received from the respondent thereafter. It has been stated that another notice dated 18.3.2015 was served upon the respondent for payment of Rs. 67,21,500/-. The petitioner has annexed a copy of the agreement dated 14.6.2014 (Annexure P1) copies of invoices, (Annexure P2 colly), statement of account (Annexure P3), notice dated 5.3.2014 (Annexure P4) and notice dated 18.3.2015 (Annexure P5).

There has been no appearance on behalf of the respondent despite service of notice and as a result thereof the petition was directed to proceed *ex parte* on 15.12.2015.

In view of the facts stated in aforesaid paragraphs we now proceed to examine the placement agreement, following the basis of petitioner's claim, other documents and evidences adduced by the petitioner in support of its claim and legitimacy thereof.

The perusal of the placement agreement (Annexure P1) reveals that it is duly executed placement agreement between the respondent and the petitioner, clearly spelling out legal, technical and commercial rights and responsibilities of both parties. The invoices annexed as well as statement of accounts also confirm payment on 7.4.2014 of an amount Rs. 90,55,038/- and the outstanding liability of the respondent to the tune of Rs. 67,21,500/- towards the petitioner. The legal notices apropos outstanding amount to the respondent have purportedly been communicated and sent through registered post with A.D./courier, although no proof regarding its dispatch has been produced. The sole witness on behalf of the petitioner Mr. Amit Aggarwal, working as Manager, Legal in the petitioner company submitted his

evidence through affidavit and he has formally proved the documents annexed with the petition. Mr. Aggarwal was examined by the Advocate Commissioner on 18th and 21st January, 2016 and his evidence has been taken on record.

In view of the facts and circumstances as well as documents and evidences available in support of petitioner's claim, as well as consistent refusal on the part of respondent to present its case by way of nonappearance, we find and hold that the agreement has been acted upon by both sides; albeit only partially by the respondent. Accordingly, we feel that there is merit in the case of the petitioner; and the petition is allowed. The outstanding dues of Rs. 67,21,500/-, as on 31.3.2015, shall be paid by the respondent to the petitioner. This amount shall be paid within eight weeks from the date of the order and the same shall also carry interest at the rate of 8% from 28.8.2015 i.e., the date of filing of the petition till this amount is paid to the petitioner.

No costs.

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(Aftab Alam)
Chairperson

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(B.B. Srivastava)
Member

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