

TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL

NEW DELHI

Reserved on: 31/01/2023

Pronounced on: 03/03/2023

BROADCASTING PETITION/574/2021
WITH
MISC APPLICATION/160/2022

Indian Cable Net Company Ltd. ...Petitioner
Versus
Star India Pvt Ltd. ...Respondent

BROADCASTING PETITION/575/2021
with
MISC APPLICATION/161/2022

Siti Networks Ltd ...Petitioner
Versus
Star India Pvt Ltd. ...Respondent

BROADCASTING PETITION/576/2021
with
MISC APPLICATION/162/2022

Siti Maurya Cable Net Pvt Ltd. ...Petitioner
Versus
Star India Pvt Ltd. ...Respondent

BEFORE

**HON'BLE MR. JUSTICE DHIRUBHAI NARANBHAI PATEL,
CHAIRPERSON**

**HON'BLE MR. SUBODH KUMAR GUPTA,
MEMBER**

**For Applicants/Appellants/
Petitioners Advocate**

Sr. Adv. Mr. Meet Malhotra
Ms. Ritwika Nanda
Ms. Palak Singh
Mr. Ravi S. S. Chauhan

For Respondents Advocate

Sr. Adv. Mr. Maninder Singh
Ms. Shilpa Gupta
Ms. Swikriti Singhanian
Mr. Ranjeet Singh Sidhu

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JUDGEMENT

Per Justice D.N. PATEL, Chairperson.

SUMMARIUM

The present petition revolves around the interpretation of the existing legal framework governing the Logical Channel Number (LCN) and Rank. The substrata of the present dispute concerns impugning of the disconnection notice dated 02/09/2021 issued by Respondent. Furthermore, an issue pertaining to payment of incentive & other allied dues as per the terms of Subscription License Agreement (SLA) & First Addendum, is the economic crux of the present dispute.

Through the institution of the present petition the petitioner contends that it is entitled to receive incentive payments and other associated dues, as per the terms agreed upon in the Subscription License Agreement (SLA), owing to its diligent maintenance of the Logical Channel Number (LCN) and Rank of the Respondent's channels.

The Respondent, on the other hand, has completely repudiated the petitioner's assertions, alleging that not only has the petitioner violated the terms of the Subscription License Agreement (SLA), but it has also contravened Clause 18(2) of the Interconnection Regulation, 2017. This deviation from the provisions of the SLA and the statutory regulations has consequently stripped the petitioner of the eligibility to claim incentive bonuses and other related dues.

We have taken considered view of the pleadings & oral submissions advanced in the present proceedings. This judgment has been rendered in an endeavour to provide clarity and resolution on the issues raised herein.

**STATUTES, RULES, REGULATIONS, LEGAL AGREEMENTS
& ABBREVIATION INVOLVED**

<u>ACT/REGULATION/RULE/AGREEMENT</u>	<u>SECTION/RULE/CLAUSE</u>
Telecom Regulatory Authority of India Act, 1997 [TRAI Act,1997]	Section 14 & 14 A
Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2017 [Interconnection Regulations, 2017]	Clause 17, 18, 18 (2), 18 (4),
Interconnection Regulations and the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017 [QoS Regulations,2017]	Explanatory Memorandum Paras 43, 97, 98, 99, 138, 139.
Subscription License Agreement (SLA) Dated 01-02-2019 [B.P. 574 of 2021]	Annexure P-4
First Addendum Agreement Dt. 01-06-2019 to SLA Dt. 01-02-2019 [B.P. 574 of 2021]	Annexure P-5
Marketing Agreement Dt. 02-03-2021 (Annex P-21)	Clause 6.2.1.3 & 13

ABBREVIATION/TERM	FULL-FORM
DPO/ MSO	Distribution Platform Operator/ Multi System Operator
EPG	Electronic Programme Guide
GEC	General Entertainment Channel
LCN/ UCN	Logical Channel Number/ Unique Channel Number
SLA	Subscription License Agreement
SOW	Statement of Work

ISSUES INVOLVED

The Following Issues are involved in the Present Petitions which needs due consideration of this Hon'ble Tribunal: -

- I.** Whether the Petitioner is entitled to incentives from February,2021 to till date or they have failed to maintain LCN Ranks as agreed between the Parties as per Subscription License Agreement?
- II.** Whether the Petitioner has displaced the LCN Rank of the Channels of the respective Respondents in respective Petitions?
- III.** What is the Scope & Ambit of Clause 18 of Interconnection Rules of 2017?
- IV.** Whether the Petitioner has violated Clause 18 (2) of the Interconnection Regulations, 2017?
- V.** Whether Re-transmission on Blank/Vacant/Unassigned LCN would Displace the LCN Ranks of the Respondent's Channels?
- VI.** Whether the petitioner has placed the TV Channels of the same genre & language consecutively as per the Telecommunication (Broadcasting & Cable) Service Standards of Quality of Service & Consumer Protection (Addressable System) Regulations, 2017 or any other Regulations as applicable?
- VII.** Whether the Petitioner is entitled to marketing fee in terms of advertising and promotion agreement?
- VIII.** Whether the Petitioner is entitled to 'Set-Off' its dues against the final amount as raised by the respondent in its disconnection notices?

FACTUAL MATRIX

- On 24-02-2019, the Petitioner & Respondent in B.P. 574 of 2021 (the Parties), executed a **Subscription License Agreement (SLA) (Annexure P-4)** to re-transmit the signals of the Respondent's Channels on the distribution platform of the Petitioner. The SLA was effective from 01-02-2019 for period of one year i.e. upto 31-01-2020.
- Thereafter on **01-06-2019**, the Parties executed a First Addendum to the SLA, by way of which, the parties amended the list of subscribed channels/subscribed Bouquet as defined in the SLA and revised the terms of incentive payable by Respondent as per the terms of SLA. **The Addendum Agreement (Annexure P-5)** came into effect from 01-06-2019 & was co-terminus with SLA.
- Petitioner in B.P. No. 574 of 2021 has laid a challenge to the 'Disconnection Notice Dt. 02-09-2021', (Annexure P-1). Which was issued by the Respondent under Clause 17 of the Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2017 [Interconnection Regulations, 2017].
- Through the Disconnection Notice, Respondent (Star India Pvt. Ltd) is demanding the payment of the amount of ₹ 20,15,41,140/- from the Petitioner. The quantum of the said amount has been thoroughly disputed by the Petitioner in this Petition. The case of the Petitioner is that the aforementioned amount raised by the Respondent (Star India Pvt. Ltd) is liable to be 'Set-off' against various other components payable to the Petitioner as dues.
- The following are the 'Financial Claims' of the Petitioners against the Respondent raised in the Present Petitions. The Petitioners in B.P. 574 of 2021 & in connected matters claim that Respondent has not

accounted for the components of dues to Petitioners, while issuing the impugned Disconnection Notice. The same is tabulated below: -

➤ **Amount due to the Petitioner in B.P. 574 of 2021**

Final Amount of Incentives	₹ 11,76,12,876/-
Final Amount of TDS	₹ 71,43,265/-
Final Amount of Marketing Fees	₹ 2,08,07,299 /-
FINAL TOTAL	₹ 14,55,63,440/-

➤ **Amount due to the Petitioner in B.P. 575 of 2021**

Final Amount of Incentives	₹ 7,23,97,338/-
Final Amount of TDS	₹ 14,72,207/-
Sum for overall impact due to incorrectly accounting for a cheque.	₹ 9,59,888/-
Sum realised by respondent after issuance of Disconnection Notice.	₹ 2,00,00,000/-
FINAL TOTAL	₹ 9,48,29,433/-

➤ **Amount due to the Petitioner in B.P. 576 of 2021**

Final Amount of Incentives	₹ 02,35,57,363/-
Final Amount of TDS	₹ 24,98,235/-
Final Amount of Marketing Fees	₹ 02,71,872 /-
FINAL TOTAL	₹ 02,63,27,470/-

- Several Correspondence between the Petitioner & Respondent were carried out in relation to Incentive Invoices raised & alleged Displacement of LCN Ranks of the Respondent's Channel in B.P. No. 574 of 2021. The same is tabulated below: -

Query by Respondent	Reply of Petitioner	Annexure
Vide Letter Dt. 23-06-2021, Objections were raised for Incentive Invoices for month of February 2021 to April 2021. Alleging Displacements of 8 Channels of Respondent. [Bindass, Star Utsav, Star Gold 2, Star Utsav Movies, UTV Action, UTV Movies, Star Gold Select, Maa Movies]	Vide Letters Dt. 22-07-2021 & 26-07-2021. Petitioner informed & reiterated that it has not displaced LCN Ranks of the Channels of Respondent. Retransmission on Blank LCN would not affect Ranking of Respondents Channel.	Annexure P-9 Annexure P-10 & Annexure P-11
Vide Letters Dt. 30-07-2021 & 13-08-2021, Objections were raised for Incentive for Month of May & June 2021. Alleging Displacement of 4 Channels of the Respondent. [Bindass, Star Utsav, Star Gold 2 and Maa Movies]	Vide Letter Dt. 23-08-2021, Petitioner informed that LCN No.s assigned to the Channels of the Respondent have not been changed in period prior to January 2021 or after.	Annexure P-12 Annexure P-13 & Annexure P-14
Vide Letters Dt. 25-08-2021, Objections were raised for Incentive for Month of July 2021. Alleging Displacement of 4 Channels of the Respondent. [Bindass, Star Utsav, Star Gold 2 and Maa Movies]. Further a demand of ₹ 13,92,44,764/- for period upto June 2021 & additional amount of ₹ 6,22,96,376/- was raised for July,2021	Vide Letter Dt. 08-09-2021 & 10-09-2021, Petitioner, informed that there was an error in the reporting of the channel 'Maa Movies' & the same has been corrected from June 2021 onwards. The petitioner reiterated that it has not displaced LCN Rank of the Channels of Respondent. Further, Petitioner is entitled to set-off the Incentive Amounts for the Months of February to July, 2021 & is entitled to Marketing fees.	Annexure P-15 Annexure P-16 Annexure P-16 A & Annexure P-17

- Hence, the basic dispute as laid bare in the above discussion is that, the Petitioner alleges that disconnection notice is bad in law & fact, as the same has been passed by the Respondent (Star India Pvt. Ltd), without

considering the dues to the Petitioner & erroneously imputing that petitioner has displaced LCN Rank of the channels of the Respondent.

- Alternately, the Respondent (Star India), has alleged that Petitioner herein is not entitled to claim any dues from the Respondent, especially considering the fact that LCN Rank of several of its channels were displaced by the Petitioner on his Distribution Platform and the same is in contravention of the SLA. The allegation of displacement of various channels of respondent on the platform of the Petitioner is tabulated below: -

<u>G.E.C.</u>		<u>JAN/21</u>	<u>G.E.C.</u>		<u>FEB/21</u>
<u>LCN</u>	<u>RANK</u>	<u>CHANNEL</u>	<u>LCN</u>	<u>RANK</u>	<u>CHANNEL</u>
50	1	Star Plus	50	1	Star Plus
51	2	Zee TV	51	2	Zee TV
52	3	Colors	52	3	Colors
53	4	Sony	53	4	Sony
54	5	Sab TV	54	5	Sab TV
55	6	& TV	55	6	& TV
56	7	Star Bharat	56	7	Star Bharat
57	8	Dangal	57	8	Dangal
58	9	Zee Anmol	58	9	Zee Anmol
59	-	-	59	-	-
60	-	-	60	-	-
61	10	Big Magic	61	10	Big Magic
62	11	Sony Pal	62	11	Sony Pal
63	12	Ez Mall.com	63	12	Ez Mall.com
64	13	Zoom	64	13	Zoom
65	14	Colors Rishtey	65	14	Colors Rishtey
66	-	-	66	15	Ishara TV
67	15	UTV Bindass	67	16	UTV Bindass
68	16	I.D.	68	17	I.D.
69	17	Star Utsav	69	18	Star Utsav
70	18	Metro Plus	70	19	Metro Plus
71	-	-	71	-	-
72	-	-	72	-	-
73	-	-	73	-	-
74	-	-	74	-	-
75	-	-	75	-	-

- Respondent (Star India) has alleged that insertion of “ISHARA TV” in ‘General Entertainment Channel Category’ genre in February 2021, has adversely affected the Ranks of UTV Bindass, which was at 15th Rank in January 2021, which was changed to Rank 16 in February

2021. Subsequently the Rank of Star Utsav, which was at Rank 17 in January 2021, was changed to Rank 18 in February 2021.

- This according to the Respondent was also the case with the Channels of Respondent in the “Hindi Movie Category” genre, wherein placement of new channels on Blank LCN’s had adversely affected the LCN Ranks of following channels of the Respondent (Star India).

Respondent’s Channel	LCN No. & Rank in Jan 21	New Entry in Feb 2021	Altered Rank in Feb 2021
Star Gold 2	LCN No. 95 Rank 5	Colors Cineplex [LCN 93 & Rank 4]	6
Star Utsav Movies	LCN No. 106 Rank 16	Colors Cineplex [LCN 93 & Rank 4]	17
UTV Action	LCN No. 119 Rank 25	Colors Cineplex [LCN 93 & Rank 4]	26
UTV Movies	LCN No. 120 Rank 26	Colors Cineplex [LCN 93 & Rank 4]	27
Star Gold Select	LCN No. 122 Rank 28	Colors Cineplex [LCN 93 & Rank 4]	29

- Further, the changes in the Rank of Respondent’s channels due to insertion of new channels is in contravention of the SLA between the parties, thus, the same deprives the right of the Petitioner to claim, “Incentive Amount”, because the non-alteration of the rank of the channels of respondent was sine-qua-non condition for availing the incentive amount by the petitioner as per the SLA according to the respondent.
- These allegations were refuted by the petitioner, by stating that insertion of new channels on Blank/Vacant LCN does not hamper or alter adversely the Rankings of the Respondent’s channels on its Platform. Therefore, after taking into account the peculiar facts of these petition, we now advance to the arguments put forth by respective parties to this litigation.

SUBMISSIONS OF THE PETITIONERS

Arguments by Counsel for Petitioner in B.P. No. 574 of 2021

1. Senior Advocate Mr. Meet Malhotra, counsel for petitioner submits that the disconnection notice dt. 02-09-2021, is bad in law & facts as the same is issued demanding quantum of ₹ 20,15,41,140/- from the petitioner, without factoring in the components of dues payable to Petitioner by Respondent. The correct course of action would be the “Set-Off”, the Dues of the Petitioner from the Demand of the Respondent.
2. It is submitted that in terms of Clause 6 read with Annexure ‘C’ of the SLA (Annexure P-4), the respondent is liable to pay to the petitioner certain incentives. Subsequently, Table ‘F’ of Annexure ‘C’ provides for LCN Rank Requirement as a “Top Specified Rank” such as Top 20 or Top 3 within the respective genre.
3. Additionally, it is pertinent to note that the petitioner has duly complied with the LCN Rank Requirement, as stated in Annexure C 1 of Schedule II of the Addendum Agreement, which serves as the basis for the incentive payments to be made by the Respondent to the petitioner.
4. Ld. Senior Counsel for the Petitioner states that the LCN & LCN Rank for the aforementioned channels for the months of February to July 2021 has been duly maintained. Further, it is stated that LCN Rank of a particular channel is determined on the basis of the first LCN of that genre and the LCN Rank/position of the said channel. It is on this basis that the Petitioner had determined the LCN rank of the channels of the Respondent and had accordingly reported to the Respondent without any objection by the Respondent, even till

January 2021 and moreover, the LCN Rank was within the ambit/purview of the commitment in the SLA.

5. It is further submitted that, in the course of business operations, often the transmission of certain channels by the Petitioner are discontinued leading to a blank LCN in the said genre. It is stated that such a blank LCN arising from the discontinuation of any channel cannot be deemed to alter the LCN Rank of any subsequent channel in the genre, which if for the sake of arguments does happen, then the LCN of the subsequent channel has to be changed to maintain the LCN Rank.
6. Likewise, the converse as well cannot be correct, that is, the re-transmission of a new channel in a blank LCN higher than the specific channel, which is not affecting the committed LCN Rank (Top 20 or Top 5 etc..) cannot be deemed to alter the LCN Rank of the said channel. To buttress his argument, the counsel for the petitioner has presented three illustrations, which are reflected below: -
 - Illustration I: - To understand the LCN Rank for Channel – ‘ABC’ on the discontinuation of transmission of a channel higher up in the LCN Rank.

<u>First Instance</u>			<u>Second Instance</u>	
LCN No. for Genre	LCN Rank	Channel	On discontinuation of channel - Gamma	LCN Rank
51	01	Alpha	Alpha	01
52	02	Beta	Beta	02
53	03	Gamma	----- (Discontinued)	03
54	04	Pi	Pi	04
55	05	ABC	ABC	05

- Thus, from Illustration No. I, at the First Instance when all the LCNs are assigned, the LCN Rank of Channel - ABC was No. 5.

- On the Second Instance, on the discontinuation of Channel - Gamma, the LCN Rank of the Channel - ABC continues to be LCN Rank 5. If the aforementioned is not taken to be correct, then the distributor has to mandatorily run a channel at the LCN No. 3 to maintain the LCN Rank of Channel -ABC, which is not possible or feasible.

➤ Illustration II: - To understand the LCN Rank for Channel - ABC on the insertion of transmission of a new channel higher up in the LCN Rank.

<u>First Instance</u>			<u>Second Instance</u>	
LCN No. for Genre	LCN Rank	Channel	On insertion of channel - Gamma	LCN Rank
51	01	Alpha	Alpha	01
52	02	Beta	Beta	02
53	03	(blank)	Gamma	03
54	04	Pi	Pi	04
55	05	ABC	ABC	05

- Thus, from Illustration No. II, at the First Instance when all the LCNs are assigned, the LCN Rank of Channel - ABC was No. 5.
 - On the Second Instance, on the insertion of Channel - Gamma, the LCN Rank of the Channel - ABC continues to be LCN Rank 5.
7. If the aforementioned premise is not accepted as correct, and assuming that Channel ABC is ranked at No. 4 in the first instance, then the distributor would be required to broadcast channel Gamma while also maintaining the LCN rank of Channel ABC as 4. Additionally, the distributor would need to reassign the LCN number of channel Pi to LCN 03, assign LCN number 04 to channel ABC, and insert channel Gamma at LCN number 5, as exemplified in Illustration No. III below: -

➤ Illustration No. III: -

First Instance			Second Instance	
LCN No. for Genre	LCN Rank	Channel	On insertion of channel - Gamma and to maintain LCN Rank 4 of channel - ABC	LCN Rank
51	01	Alpha	Alpha	01
52	02	Beta	Beta	02
53	--	--	Pi	03
54	03	Pi	ABC	04
55	04	ABC	Gamma	05

8. Ld. Senior Counsel for the Petitioner, basing his arguments on above illustrations submits, that for all practical intents & purposes insertion of channel on Blank LCNs without hampering the LCN Ranks commitment as per the SLA, would not disentitle the petitioner from claiming the incentive amount, which is computed as per the SLA.
9. It is submitted that the Petitioner has not displaced the LCN Rank of the channels of the Respondent, as alleged by the Respondent vide its letters dated 23.06.2021, 30.07.2021, 13.08.2021, 25.08.2021, 22.09.2021 and 27.10.2021 & that LCN No. and LCN Rank of the channels of the Respondent has been maintained by the petitioner as per Schedule IV of the Addendum executed between the parties.
10. Furthermore, Respondent has paid/ adjusted the incentive amounts receivable by the Petitioner till January 2021. Furthermore, the Respondent has not raised any dispute regarding the LCN No. and/or the LCN Rank of the channels of the Respondent, till the period January 2021 have been maintained by the Petitioner.
11. It is submitted that, even for the period for which the Respondent has paid the incentive amounts, the LCN Rank of the channels of the Respondent as per ground reporting, would not be in consonance with

the LCN Rank as agreed between the parties in Schedule IV of the Addendum.

12.A comparative chart of the LCN Rank as agreed between the parties under Schedule IV of the Addendum and as stated by the Respondent on ground verification, for the period prior to January, 2021, is as under: -

Channel Name	Prior to January, 2021 (As per ground verification) by Respondent.		LCN Rank as per Schedule IV of Addendum and as reported by the petitioner.
-	LCN No.	LCN Rank	LCN RANK
Bindass	67	14	18
Star Utsav	69	16	20
Star Gold 2	95	5	6
Star Utsav Movies	106	11	17
UTV Action	119	18	30
UTV Movies	120	18	31
Star Gold Select	122	21	33
Maa Movies	582	2	Not Agreed

13.It is submitted that the Petitioner has always considered the LCNs which have not been allotted to any channel for the purposes of LCN Ranking calculations. In a particular genre, the LCN Rank of a particular channel is determined on the basis of the first LCN of that genre and the LCN No./position of the said channel. It is on this basis that the Petitioner had determined the LCN rank of the channels of the Respondent and had accordingly reported to the Respondent without any objection by the Respondent, even till January 2021

14.It is submitted that it shall be evident that determination and reporting of the LCN Rank of any channel by the Petitioner has been done by taking into consideration the first LCN No. of the genre and the LCN No. of the said channel. Thus, even if any LCN No. has not been assigned to any channel and/or any LCN No. falls vacant owing to discontinuation of any

channel, the said LCN Nos. have been considered for the purposes of the LCN Rank determination the LCN Rank of the channel of the Respondent remains unchanged and unaltered.

- 15.** It is submitted that Regulation 18 (2) of the Interconnection Regulations, 2017, pertains to the listing of channels on the Electronic Programming Guide and does not pertain to LCN Ranking. Furthermore, Regulation 18(2) of the Interconnection Regulations, the Petitioner is required to place channels in the Electronic Programming Guide ("EPG") in such a way that the television channels of same genre, as declared by the broadcasters, are placed together consecutively.
- 16.** The counsel for the petitioner has relied upon the Explanatory Memorandum of the Interconnection Regulations and the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017, to substantiate his point about consecutive listing of the Channels in a Particular Genre.
- 17.** It is submitted that, as per the mandate of Regulation 18(2) of the Interconnection Regulations read with the Explanatory Memorandum to the Interconnection Regulations and the QoS, the Petitioner is required to place the channels of the broadcasters on the EPG as follows: -

 - i. Under the same genre as declared by the broadcasters
 - ii. Consecutively on the same genre
 - iii. One channel to appear at one place only.
- 18.** Thus, the assertions of respondent, while issuing the disconnection notice dt. 02-09-2021 is unwarranted and bad in law & facts. The same deserves no consideration by this Hon'ble Court & that the factum of financial considerations as brought on record by the petitioner is liable

to be set-off with the final amount as raised by the petitioner in disconnection notice.

Arguments by Counsel for Petitioner in B.P. No. 575 of 2021

- 19.** The petitioner, in its rejoinder on Pages 335-337, submits that the LCN No. & the LCN Rank of the channels have been duly maintained in terms of the agreement and thus the petitioner is entitled to incentives for the months of Feb, 2021- July, 2021 (Rs. 2,38,14,915), August, 2021 (Rs. 37,33,537) and September, 2021 (Rs. 37,80,388).
- 20.** Petitioner submits that Regulation 18(2) of the “Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television Systems) Regulations, 2017” pertains to the listing of channels on the Electronic Programming Guide (EPG) and does not pertain to LCN Ranking. It further states that in terms of the regulation, petitioners are required to place channels in the EPG in such a way that the television channels of same genre, as declared by broadcasters, are placed together consecutively.
- 21.** In this regard, the petitioner submits that as per the mandate of Regulation 18(2) of the Interconnection Regulations read with the Explanatory Memorandum to the Interconnection Regulations and the QoS, the petitioner is required to place the channels of the broadcasters on the EPG (i) under the same genre as declared by the broadcasters (ii) consecutively on the same genre and (iii) one channel to appear at one place only. The petitioner states that it is in compliance with all three of the requirements.
- 22.** TDS towards months of June, 2021 & July, 2021 which have already been deposited by the Petitioner has not been accounted for by the respondent which is to the tune of Rs. 14,72,207.

23. Petitioner states that Respondent has incorrectly accounted for a cheque of SITI Networks Ltd. (Rest of India Account) in lieu of the cheque of the Petitioner/SITI Networks Ltd. (East Account) against the outstanding of the Petitioner leading to non-accounting of an amount to the tune of Rs. 9,59, 888.

24. The petitioner submits that two cheques (Cheque No. 823992 & 823994) have been realized by the respondent on 15.09.2021 & 16.09.2021 and thus this amount has to be reduced from the outstanding amount.

Arguments by Counsel for Petitioner in B.P. No. 576 of 2021

25. The counsel for petitioner submits that the disconnection notice dt 02-09-2021, is bad in law & facts as the same is issued demanding quantum of ₹ 2,59,95,521/- from the petitioner, without factoring in the components of dues payable to Petitioner by Respondent. The correct course of action would be the “Set-Off”, the Dues of Petitioner from the Demand of the Respondent.

26. Ld. Counsel for the petitioner at this juncture presents a table from his pleadings, stating that the perusal of the same would denote that since April 2019, the L.C.N Ranks of the Respondent’s Channel has not been altered. The table is reproduced below: -

Channel Name	Genre Name and LCN No. in EPG		April, 2019 (as per Schedule IV of Addendum as reported)		December, 2020 (as declared in Incentive Invoice of Dec, 2020)		February, 2021 (as declared in Incentive Invoice of Feb, 2021)		July, 2021 (as declared in Incentive Invoice of July, 2021)	
	Genre Name	First LCN No. for the Genre	LCN No.	LCN Rank	LCN No.	LCN Rank	LCN No.	LCN Rank	LCN No.	LCN Rank
Star Gold 2	Hindi Movies	90	95	6	95	6	95	6	95	6
Star Utsav Movies	Hindi Movies	90	106	17	106	17	106	17	106	17
UTV Action	Hindi Movies	90	119	30	119	30	119	30	119	30
UTV Movies	Hindi Movies	90	120	31	120	31	120	31	120	31
Star Gold Select	Hindi Movies	90	122	33	122	33	122	33	122	33

- 27.** Counsel for the petitioner, while placing reliance on the abovementioned table, states that it is evident that the LCN & LCN Rank for the aforementioned channels for the months of February to July 2021 has been duly maintained. Further, it is stated that LCN Rank of a particular channel is determined on the basis of the first LCN of that genre and the LCN Rank/position of the said channel.
- 28.** It is on this basis that the Petitioner had determined the LCN rank of the channels of the Respondent and had accordingly reported to the Respondent without any objection by the Respondent, even till January 2021 and moreover, the LCN Rank was within the ambit/purview of the commitment in the SLA.
- 29.** Further, counsel for the Petitioner adopts the arguments canvassed by the Counsel appearing for the Petitioner in B.P. 574 of 2021.

SUBMISSIONS OF THE RESPONDENTS

Arguments of Respondent in B.P. No. 574 of 2021

30. Mr. Maninder Singh, Senior advocate submits that the Petitioner has presented incorrect facts and frivolous issues in the present Petition to prejudice this Hon'ble Tribunal against the Respondent. It is submitted that the Petitioner is a habitual defaulter. The Petitioner purposely does not clear the outstanding dues and on issuance of the disconnection notice approaches this Hon'ble Tribunal as only a time buying tactic.
31. It is submitted that the Petitioner is claiming adjustment of incentive invoices without making complete payment towards the subscription fee for the months of April 2021 to July 2021. It is pertinent to note that clause 4 of the Subscription License Agreement states that a DPO is entitled to payment of incentives subject to DPO making payment of the monthly subscription fee as set out in the payment terms.
32. It is submitted that the Respondent *vide* its letters dated 23.06.2021, 30.07.2021, 13.08.2021, 25.08.2021, 22.09.2021 and 27.10.2021 has already communicated to the Petitioner regarding displacement of LCN Ranks of Respondent's Channels due to which the Petitioner is not eligible for claiming Incentives for the months of February 2021 to September 2021.
33. The learned Senior Counsel has referred to the purported displacement of the respondent's channels on the petitioner's platform from February 2021 to September 2021. The Senior Counsel has presented tables demonstrating the purported displacement of the channels of the respondent for various months on the petitioner's platform. For the sake of convenience, it is advisable to reproduce and examine the tables.

- The details of the LCN Rank deviation of the channels by the Petitioner for the months of February 2021, March 2021 and April 2021 are provided herein below: -

Channels	Prior to January 2021		Change w.e.f from 10-02-2021 till 23-06-2021	
	Designated LCN No. & Rank on Ground Verification	LCN No. & Rank as declared by Petitioner	LCN No. & Rank on Ground Verification	LCN No. & Rank as declared by Petitioner
-				
BINDASS	67 & 14	67 & 18	67 & 15	67 & 18
STAR UTSAV	69 & 16	69 & 20	69 & 17	69 & 20
STAR GOLD 2	95 & 5	115 & 6	95 & 6	115 & 6
STAT UTSAV MOVIES	106 & 11	126 & 17	106 & 12	126 & 17
UTV ACTION	119 & 18	139 & 30	119 & 20	139 & 30
UTV MOVIES	120 & 18	140 & 31	120 & 21	140 & 31
STAR GOLD SELECT	122 & 21	142 & 33	122 & 23	142 & 33
MAA MOVIES	582 & 2	Not Reported	582 & 4	Not Reported

- The details of the LCN Rank deviation of the channels by the Petitioner for the month of May 2021 are provided herein below: -

Channels	Prior to January 2021		Change w.e.f from 10-02-2021 till 30-07-2021	
	Designated LCN No. & Rank on Ground Verification	LCN No. & Rank as declared by Petitioner	LCN No. & Rank on Ground Verification	LCN No. & Rank as declared by Petitioner
-				
BINDASS	67 & 14	67 & 18	67 & 15	67 & 18
STAR UTSAV	69 & 16	69 & 20	69 & 17	69 & 20
STAR GOLD 2	95 & 5	115 & 6	95 & 6	115 & 6

MAA MOVIES	582 & 2	Not Reported	582 & 4	Not Reported
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- The details of the LCN Rank deviation of the channels by the Petitioner for the month of June 2021 are provided herein below: -

Channels	Prior to January 2021		Change w.e.f from 10-02-2021 till 13-08-2021	
	Designated LCN No. & Rank on Ground Verification	LCN No. & Rank as declared by Petitioner	LCN No. & Rank on Ground Verification	LCN No. & Rank as declared by Petitioner
-				
BINDASS	67 & 14	67 & 18	67 & 15	67 & 18
STAR UTSAV	69 & 16	69 & 20	69 & 17	69 & 20
STAR GOLD 2	95 & 5	115 & 6	95 & 6	95 & 6
MAA MOVIES	582 & 2	Not Reported	582 & 4	582 & 8

- The details of the LCN Rank deviation of the channels by the Petitioner for the month of July 2021 are provided herein below: -

Channels	Prior to January 2021		Change w.e.f from 10-02-2021 till 25-08-2021	
	Designated LCN No. & Rank on Ground Verification	LCN No. & Rank as declared by Petitioner	LCN No. & Rank on Ground Verification	LCN No. & Rank as declared by Petitioner
-				
BINDASS	67 & 14	67 & 18	67 & 15	67 & 18
STAR UTSAV	69 & 16	69 & 20	69 & 17	69 & 20
STAR GOLD 2	95 & 5	116 & 6	95 & 6	95 & 6
MAA MOVIES	582 & 2	Not Reported	582 & 4	582 & 8

- The details of the LCN Rank deviation of the channels by the Petitioner for the month of August 2021 are provided herein below:-

Channels	Prior to January 2021		Change w.e.f from 10-02-2021 till 22-09-2021	
	Designated LCN No. & Rank on Ground Verification	LCN No. & Rank as declared by Petitioner	LCN No. & Rank on Ground Verification	LCN No. & Rank as declared by Petitioner
-				
STAR GOLD 2	95 & 5	115 & 6	95 & 6	115 & 6
MAA MOVIES	582 & 2	Not Reported	582 & 4	582 & 4

- The details of the LCN Rank deviation of the channels by the Petitioner for the month of September 2021 are provided herein below: -

Channels	Prior to January 2021		Change w.e.f from 10-02-2021 till 27-10-2021	
	Designated LCN No. & Rank on Ground Verification	LCN No. & Rank as declared by Petitioner	LCN No. & Rank on Ground Verification	LCN No. & Rank as declared by Petitioner
-				
STAR GOLD 2	95 & 5	115 & 6	95 & 6	95 & 6
MAA MOVIES	582 & 2	Not Reported	582 & 4	582 & 4
STAR UTSAV MOVIES	106 & 11	126 & 17	106 & 12	106 & 17
UTV MOVIES	120 & 19	140 & 31	120 & 21	120 & 31
STAR GOLD SELECT	122 & 21	142 & 33	122 & 22	122 & 33
UTV ACTION	119 & 18	139 & 30	119 & 20	119 & 30

34. Based on the above tabulated information as supplied by the respondent, Ld. Senior Advocate submits that, under the Subscription License Agreement signed between the parties it is clearly laid out that *"in lieu of the LCN Rank Requirement, the LCN Rank as reported under the applicable SLA by the respective DPOs shall satisfy the qualifying*

parameters for LCN Incentive. The DPO confirms that the DPO shall continue and maintain the LCN Rank as reported under the applicable SLA for the entire Term of the SLA in accordance with the Applicable Laws.” However, the Respondent verified the same on ground and observed that the LCN Rank of the channels has been changed/modified by the Petitioner. Hence, the Petitioner is not satisfying the qualifying parameters for availing the LCN Incentive for the months of February 2021, March 2021, April 2021, May 2021, June 2021, July 2021, August 2021 & September 2021.

35. It is further submitted that the LCNs which have not been allotted to any channel have not been considered for ranking calculation, in accordance with Clause 18 (2) of the Interconnection Regulations, 2017, which mandates the distributors to place channels in the same genre consecutively.
36. Further it has been submitted that contrary to the mandate under the New Regulatory Framework as explained in the Explanatory Memorandum at Para 43 of the Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer Protection (Addressable Systems) Regulations, 2017), the Petitioner has not been placing TV channels of the same genre and language consecutively, as some of the LCN No.s are neither configured on the EPG nor allotted to any of the TV channels for reasons best known to the Petitioner.
37. Moreover, the Respondent repeatedly requested the Petitioner to restore the channels to the designated LCN Rank. Therefore, the Petitioner is not eligible for claiming incentives for the months of February 2021 to September 2021.
38. It is submitted that in the light of Clause 6.2.1.3 of the Marketing

Agreement, it ought to be treated as a stand-alone agreement between the parties & as such the same has no relation to any other agreement between the parties. Further, the perusal of Clause 13 of the said agreement would denote that any disputes arising out of the marketing agreement are subject to the jurisdiction of the courts of Mumbai. Thus, the petitioner in the instant proceeding is not entitled to claim set-off of the marketing fee.

39. The Petitioner is claiming that the Respondent has not accounted the TDS amount of ₹ 71,43,265/- for the invoices of June 2021 and July 2021. It is submitted that the Respondent has received TDS certificates from the Petitioner on 01.11.2021 and the same has been accounted by the Respondent. Therefore, after adjusting all payments, the Petitioner is liable to pay an outstanding subscription fee amounting to ₹ 18,21,561/- considering billing for the month of September 2021.
40. Ld. Senior Advocate submits that the concept of placement of channels broadcaster on the platform of the distributor is based on discretion of parties. According to the lawful agreement in terms of contract and in the present case is the SLA, the Distributor is obliged to pay charges to the broadcaster as per the Tariff approved by the Regulator (TRAI).
41. It is submitted that there are two concepts in relation to the Electronic Programme Guide (EPG) and the placement of channels. The first being LCN & second being the Rank. Further, Clause 18 of the Interconnection Regulations, 2017 has mandatory stipulations in relation to the placement of Channels: -
 - i. Every Channel placed in a Genre is required to have an LCN.

- ii. It is obligated upon the Broadcaster to declare genre of its channels & Clause 18 (1) categorizes channels into 9 Genres.
- iii. Clause 18 (4) prohibits change/alteration of LCN for the period of at least 1 Year. It is pertinent to note that proviso to Rule 18 (4) provides instances when LCN can be changed within 1 year.
- iv. After the period of 1 year there exists a right (in favor of Distributor) to change the LCN after a period of One Year. However, the prevailing industry practice does not follow changing of LCN as the same is not commercially feasible.

42. It is submitted that, despite the above stipulation, the placement of channels in a specific genre is left to the commercial negotiation between the parties. This commercial negotiation is based on the commercial wisdom of the parties, which culminates into a binding lawful agreement in form of contract i.e. SLA. The placement of the channel for the purpose of “Rank” is agreed on the basis of negotiations between the parties. Thus, the Rank of a channel in any genre is agreed between the parties & is determined by the terms & conditions agreed between them. Therefore, the rights & duties of the parties are set out in the contract (SLA) in accurate and exact terms.

43. Ld. Senior Counsel, while relying upon the Clause 18 of the Interconnection Regulations, 2017 submits that DPO have been obligated under Proviso to Clause 18 (2) that all channels of the “Same Language” within the same Genre shall appear together consecutively in the EPG. Thus, Clause 18 (2) has obligated each DPO to ensure that TV Channels of the same genre are placed together consecutively.

44. Ld. Senior Counsels, had drawn the attention of this Tribunal to the observations of TRAI contained in Para 97 & 98 of the Explanatory Memorandum of QoS Regulations, 2017 and states that for purposes of curbing the menace of the practice of frequently changing LCN Numbers, clause 18 (4) imposes a prohibition upon all DPOs against changing the LCN for a period of one year from the date when such number is assigned to any TV Channel on its platform.

45. Thus, the provision of Clause 18 (4) along with its first proviso to provision of clause 18 (1), 18 (2) & 18 (3) makes it abundantly clear that channels have to be placed together consecutively, there is no permissibility whatsoever of keeping any LCN No. as blank on the first day of the term of at-least one year. Further, DPOs cannot alter the LCN Number for a period of 1 year nor can they alter the LCN No. during the same time period. Resultantly, DPOs have no right and are prohibited from keeping any LCN No. as Vacant.

46. Moreover, it is not permissible for any DPO to even contend that it can either keep any LCN No. as vacant or subsequently insert any other TV Channel against any such Blank/Vacant LCN No. The requirement of assigning LCN together consecutively does not leave any permissibility of abovementioned scenario by the DPOs.

47. These arguments by the Respondent (Star India Pvt. Ltd) were fortified by relying upon the following decisions: -

Forum	Citation & Para
Hon'ble Supreme Court of India	(1965) 1 SCR 861, Para 23
Hon'ble Supreme Court of India	(2004) 12 SCC 360, Para 12
Hon'ble Supreme Court of India	(2016) 12 SCC 288, Para 15

Hon'ble Supreme Court of India	(2019) 19 SCC 42, Para 20
Hon'ble Supreme Court of India	(2021) 11 SCC 1, Para 62
Hon'ble High Court of Bombay	1974 SCC OnLine Bom 14, Para 11
Hon'ble High Court of Bombay	2006 SCC OnLine Bom 315, Para 13
Hon'ble High Court of Calcutta	2017 SCC OnLine Cal 147, Para 14
Hon'ble High Court of Delhi	2018 SCC OnLine Del 10409, Para 9
Hon'ble High Court of Kerela	1992 SCC OnLine Ker 307, Para 5-8
Hon'ble High Court of Orissa	1971 SCC OnLine Ori 10, Para 3
Hon'ble High Court of Patna	2015 SCC OnLine Pat 1994, Para 22
Hon'ble High Court of P & H	1957 SCC OnLine Punj 177, Para 28
Queen's Bench (Foreign Jurisdiction)	[1964] 2 Q.B. 203

- 48.** In the view of above quoted judgements a salutary point has been made by the Ld. Senior Advocate that a conjoint reading of Regulation 18 (2) would mean that it is imperative upon a distributor to place channels continuously without any break/ interval/ interruption/ unbroken.
- 49.** Ld. Senior Advocate further submits that for placement of TV Channels on the platform of the Distributor, an incentive is negotiated through SLA based on "Rank" of the TV Channel in a specific genre. The source of revenue for placement of such TV channels only flows from the commercial negotiated contract & not from statutory regulations of the TRAI.
- 50.** Thus, if an incentive is claimed, the same is claimed on the basis of the commercially agreed contract (SLA). Moreover, any claim of incentive is based on adherence to the stipulations contained in SLA. Any deviance from the same would disentitle the petitioner from claiming any incentive.

51. It is submitted that for determination of incentive, Rank of a TV Channel in a specific genre is the determinative factor. The conditions underlying rank is part of the SLA & any violation of the conditions would imperatively negate any claim for incentive for placement of the TV Channel. For example, if a distributor of a TV channel, while maintaining a particular LCN Number of the channel as well as its platform in relation to particular channel, in effect, alters the Rank of that Channel in the genre, he would automatically and imperatively disentitle itself from making any claim for any incentive in relation to placement of the channel, notwithstanding, the fact that the LCN No., which was initially allocated by the distributor of TV Channels continues to remain the same at the platform.

52. It is submitted that in terms of the Original Subscription License Agreement executed by petitioner & respondent on 24-02-2019, clearly stipulates that Rank to be given to the channels of the Respondent on the Platform of the Petitioner. Further, in relation to channels where no specific rank was agreed upon, it was agreed that those channels will be placed above a specific rank.

53. This agreement, which was binding on the DPO (Petitioner), was not followed by the petitioner & as explained above (through tables), at various instances Petitioner has changed the rank of the Respondent Channels, by inserting new channels in vacant LCNs, thereby negating the terms of the SLA & subsequently disentiing itself from availing incentive payments as agreed upon, as the adherence to Rank of the channel was sine qua non for availing such incentives.

54. Thus, the claim of petitioner in assailing the Disconnection Notice dt.

02-09-2021 is on misconceived appreciation of Interconnection Regulations, 2017, non-adherence to terms of SLA & misconstruing the facts of the present case, the same needs no indulgence from this Hon'ble Tribunal and should be dismissed forthwith.

Arguments of Respondent in B.P. No. 575 of 2021

- 55.** The Respondent has denied the petitioner's claims to the incentives and accordingly not accounted for it in the Disconnection Notice. The respondent states that petitioner is claiming adjustment of incentive invoices without making complete payment towards the subscription fee for the month of April, 2021 to July, 2021. The respondent in light of this relies upon Clause 4 of the SLA which states that a DPO is entitled to payment of incentives subject to DPO making payment of the monthly subscription fee as set out in the payment terms.
- 56.** It is further submitted that the respondent vide its letters has already communicated to the petitioner regarding displacement of LCN Rank of Star Channels due to which the petitioner is not eligible for claiming incentives for the months of February, 2021 to September, 2021. The details of the LCN Rank deviation of the channels by the petitioner for the months of February, 2021 to March, 2021 are as follows:

Channel	Prior to January 2021		Change with effect from 10.02.2021 onwards till 23.06.2021	
	Designated LCN No. & Rank on ground verification	LCN No. & Rank as declared by the Petitioner	LCN No. & Displaced LCN Rank on ground verification	LCN No. & Rank as declared by the Petitioner
Bindass	67 & 14	67 & 18	67 & 15	67 & 18
Star Utsav	69 & 16	69 & 20	69 & 17	69 & 20
Star Gold 2	95 & 5	115 & 6	95 & 6	115 & 6
Star Utsav Movies	106 & 11	126 & 17	106 & 12	126 & 17

UTV Action	119 & 18	139 & 30	119 & 20	139 & 30
UTV Movies	120 & 19	140 & 31	120 & 21	140 & 31
Star Gold Select	122 & 21	142 & 33	122 & 23	142 & 33
Maa Movies	582 & 2	Not Reported	582 & 4	Not Reported

- Details of LCN Rank deviation of the channels by the petitioner for the month of May 2021 are:

Channel	Prior to January 2021		Change with effect from 10.02.2021 onwards till 30.07.2021	
	Designated LCN No. & Rank on ground verification	LCN No. & Rank as declared by the Petitioner	LCN No. & Displaced LCN Rank on ground verification	LCN No. & Rank as declared by the Petitioner
Bindass	67 & 14	67 & 18	67 & 15	67 & 18
Star Utsav	69 & 16	69 & 20	69 & 17	69 & 20
Star Gold 2	95 & 5	115 & 6	95 & 6	115 & 6
Maa Movies	582 & 2	Not Reported	582&4	Not Reported

- Details of LCN Rank deviation of the channels by the petitioner for the month of June 2021 are: -

Channel	Prior to January 2021		Change with effect from 10.02.2021 onwards till 13.08.2021	
	Designated LCN No. & Rank on ground verification	LCN No. & Rank as declared by the Petitioner	LCN No. & Displaced LCN Rank on ground verification	LCN No. & Rank as declared by the Petitioner
Bindass	67 & 14	67 & 18	67 & 15	67 & 18
Star Utsav	69 & 16	69 & 20	69 & 17	69 & 20
Star Gold 2	95 & 5	115 & 6	95 & 6	95 & 6
Maa Movies	582 & 2	Not Reported	582 & 4	582 & 8

- Details of LCN Rank deviation of the channels by the petition for the month of July 2021 are: -

Channel	Prior to January 2021		Change with effect from 10.02.2021 onwards till 13.08.2021	
	Designated LCN No. & Rank on	LCN No. & Rank as	LCN No. & Displaced LCN	LCN No. & Rank as declared by the Petitioner

	ground verification	declared by the Petitioner	Rank on ground verification	
Bindass	67 & 14	67 & 18	67 & 15	67 & 18
Star Utsav	69 & 16	69 & 20	69 & 17	69 & 20
Star Gold 2	95 & 5	115 & 6	95 & 6	95 & 6
Maa Movies	582 & 2	Not Reported	582 & 4	582 & 8

- Details of LCN Rank deviation of the channels by the petitioner for the month of August 2021 are:

Channel	Prior to January 2021		Change with effect from 10.02.2021 onwards till 22.09.2021	
	Designated LCN No. & Rank on ground verification	LCN No. & Rank as declared by the Petitioner	LCN No. & Displaced LCN Rank on ground verification	LCN No. & Rank as declared by the Petitioner
Star Gold 2	95 & 5	115 & 6	95 & 6	95 & 6
Maa Movies	582 & 2	Not Reported	582 & 4	582 & 4

- Details of the LCN Rank deviation of the channels by the petitioner for the month of September 2021 are:

Channel	Prior to January 2021		Change with effect from 10.02.2021 onwards till 23.06.2021	
	Designated LCN No. & Rank on ground verification	LCN No. & Rank as declared by the Petitioner	LCN No. & Displaced LCN Rank on ground verification	LCN No. & Rank as declared by the Petitioner
Star Gold 2	95 & 5	115 & 6	95 & 6	95 & 6
Maa Movies	582 & 2	Not Reported	582 & 4	582 & 4
Star Utsav Movies	106 & 11	126 & 17	106 & 12	106 & 17
UTV Movies	120 & 19	140 & 31	120 & 21	120 & 31
Star Gold Select	122 & 21	142 & 33	122 & 22	122 & 33
UTV Action	119 & 18	139 & 30	119 & 20	119 & 30

57. Respondent has also stated that contrary to the mandate under the New Regulatory Framework as explained in the Explanatory Memorandum at Para 43 of the “Telecommunication (Broadcasting and Cable) Services Standards of Quality of Service and Consumer

Protection (Addressable Systems) Regulations, 2017”, the petitioner has not been placing TV Channels of the same genre and language consecutively as some of the LCN Nos. are neither configured on the EPG nor allotted to any of the TV Channels therefore petitioner is not eligible for claiming incentives for the month of February 2021 to September 2021.

58. Respondent has alleged that the petitioner has not taken into consideration the LCNs which have not been allotted any channel for ranking purposes as per the mandate of Regulation 18 (2) of the Interconnection Regulations.
59. Respondent further submits that petitioner is also liable to pay an outstanding subscription fee amount of ₹14,70,395/- considering billing for the month of September 2021.
60. Respondent has argued that it has informed the petitioner that credit for the TDS amount will be given post receipt of valid TDS certificate from the petitioner.

Arguments of Respondent in B.P. No. 576 of 2021

61. The counsel appearing for Respondent adopts the submission of the counsel for Respondent in B.P. No. 574 of 2021, as canvassed by Ld. Senior Advocate Mr. Manindar Singh.

REASONS & ANALYSIS

62. These three petitions have been jointly considered and decided upon, as they concern similar legal and factual matters. Broadcasting Petition No. 574 of 2018, is the lead matter and thus will serve as the main source of reference for facts and documents, unless specified otherwise.
63. The fundamental contention at the heart of the three petitions pertains to the purported displacement of the respondent's channels on the petitioner's platform. The displacement of aforementioned channel as alleged by respondent, accordingly, divest the petitioner from claiming incentive. This was the reasoning flowing from the respondent when the respondent issued disconnection notice dt. 02-09-2021.
64. The petitioner has challenged the aforementioned disconnection notice on the grounds of both legal and factual infirmity. The petitioner firmly asserts that it has not displaced the respondent's channels on its distribution platform. Thus, he is entitled to the incentive amount as agreed upon through mutual consultation & concurrence in form of binding agreement “SLA”.
65. Needless to state that prior to delving into the intricacies, technicalities, and complexities of the current dispute, it would be judicious for us to familiarize ourselves with the pivotal contractual provision pertaining to the placement of the respondent's channels and the entitlement to incentives between the parties. Thus, for ready reference the relevant portion of the SLA & First Addendum are reproduced herein below: -

Schedule II

ANNEXURE C 1

INCENTIVE SCHEME

Objective	To ensure reach and access of STAR Channels to target subscriber/consumers base of the Platform including to under-served markets.	
Eligibility Condition	Fulfilling LCN Ranks Requirements for all Subscribed Bouquets and Subscribed A-la-Carte Channels as detailed hereunder.	
Other conditions for availing Penetration Incentive	In the event the reported penetration varies for any of the Channels in the Subscribed Bouquet, the Channel(s) with the least penetration will be considered for the calculation of Penetration Level of the Subscribed Bouquet(s). Providing the Qualifying Reports (as defined below) on or before the Qualifying Report Deadline.	
Penetration Incentive Qualifying Parameters	Part A	Part B
	Applicable on Subscribed Bouquets & Subscribed A-la-Carte Channels except Disney Channel, Hungama TV, Marvel HQ, Disney Junior, Disney International HD and Disney Kids Pack.	Applicable on Disney Channel, Hugama TV, Marvel HQ, Disney Junior, Disney International HD and Disney Kids Pack.
	DPOs shall be entitled to Penetration Incentive of 15% on all Subscribed Bouquets and Subscribed A-la-Carte Channels provided that the DPO satisfies the following conditions: a) Achieving of $\geq 75\%$ through any combination of SVP, SVP HD, SVP HD Lite, SPP and SPP and SPP HD bouquets on Active Platform Subscriber Base. Disney Kids pack, SVP Lite English, SVP Lite Hindi & SBP HD Lite English are excluded for this purpose. b) Achieving Penetration Level of $> 75\%$ for the Lead Channel(s) on the Active Platform Subscriber Base in all of the Target Markets as set out in Table A, where the DPO is present.	DPOs shall be entitled to penetration Incentive of 15% on the Subscribed Bouquet and Channels listed above, provided that the DPO satisfies the following condition: a) Achieving a total Bouquet Penetration Level of $> 30\%$ if Disney Kids Pack on Active Platform Subscriber Base.
LCN Rank Requirements	As mentioned above, to qualify for Penetration Incentive on the Subscribed Bouquets or Subscribed A-la-Carte Channels, the DPO must meet LCN Rank Requirements as given below: 1: The DPO shall maintain the LCN Rank as last reported to STAR in the month of April 2019, as declared in Schedule IV and as declared, during the Term of the SLA. 2: in the event, the DPO has not subscribed/availed any of the Channels prior to the execution of this SLA, then upon execution of this SLA, the DPI shall provide the LCN Rank for such channels, as defined in Table B (applicable to Part B) and Table C (applicable to Part B) below, during the Term of the SLA subject to following conditions: i) In case the DPO has different LCN Rank for any of the Channels forming part of the Subscribed Bouquet or Subscribed A-la-Carte Channels on their Platform EPG or has multiple head ends with different LCN Ranks then the worst LCN Rank (highest numerical) for each of the Channel will be considered for the purpose LCN Rank computation.	

	<p>ii) DPO can qualify for Penetration Incentive only if the DPO meets LCN Ranks for ALL Channels forming part of the Subscribed Bouquet or Subscribed A-la-Carte Channels.</p> <p>iii) Deviations- UP to three LCN Ranks for a maximum of two channels falling under Category B as set out in Table B and Table C as applicable.</p>
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Active Platform Subscriber Base shall mean the subscribers who have subscribed to breasting services from the DPO.

Active Platform SD Subscriber Base shall mean the Active Platform Subscriber Base who have subscribed for only SD channels from the DPO.

Active Platform HD Subscriber Base shall mean the Active Platform Subscriber Base who have subscribed for one or more HD channels from the DPO.

Target Market shall mean the markets as set out in Table A where the DPO has Active Platform Subscriber Base.

Penetration Level shall mean the penetration of Subscribed Bouquets or Subscribed A-la-Carte Channels achieved by the DPO in a territory.

Qualifying Report shall mean the reports to be provided by DPO in the format set out in Qualifying Reports Section, on or before the Qualifying Report Deadline.

Qualifying Report Deadline shall mean seventh (7th) day form the end of each calendar month, on or before which, the DPO has to provide the Qualifying Report to STAR.

Table A (Applicable to Part A)

TABLE A (Applicable to Part A)		
Lead Channel	Target Market	Applicable Subscriber Base
Star Plus and Star Plus HD	Hindi Speaking Markets (HSM) – All States & Union Territories (UT) excluding West Bengal, Maharashtra, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Sikkim and	Active Platform Subscriber Base

	Karnataka, Tamil Nadu, Kerala, Lakshadweep and Puducherry	
Star Jalsha and Star Jalsha HD	West Bengal	Active Platform Subscriber Base
Star Pravah and Star Pravah HD	Maharashtra, Goa	Active Platform Subscriber Base
Any Star Sports 1*	NES Market comprising of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Sikkim and Assam	Active Platform Subscriber Base
Maa TV and Maa HD	Andhra Pradesh, Telangana	Active Platform Subscriber Base
Star Suvama and Star Suvama HD	Karnataka	Active Platform Subscriber Base
Vijay and Vijay HD	Tamil Nadu, Puducherry	Active Platform Subscriber Base
Asianet and Asianet HD	Kerala, Lakshadweep	Active Platform Subscriber Base

For example, to measure Penetration Level of the Lead Channel in West Bengal market, combined penetration of Star Jalsha and Star Jalsha HD shall be measured on the DPO's Active Platform Subscriber Base in West Bengal.

“To measure Lead Channel Penetration in NES A Market (Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Sikkim and Assam), combined penetration of Star Sports 1 Hindi, Star Sports 1 Bangla, Star Sports 1, Star Sports 1 HD Hindi and Star Sports HD 1 shall be considered on Active Platform Subscriber Base of the DPO in NES A Market.”

TABLE B (APPLICABLE TO PART A) LCN RANK REQUIREMENT				
No.	Channel	Category	Genre	LCN Rank
1	Star Plus	A	Hindi General Entertainment	Top 3
2	Star Bharat	A	Hindi General Entertainment	Top 7
3	Star Utsav	A	Hindi General Entertainment	Top 20
4	Bindass	B	Hindi General Entertainment	Top 20
5	Star Gold	A	Hindi Movies	Top 3
6	Movies Ok	B	Hindi Movies	Top 6
7	UTV Movies	A	Hindi Movies	Top 10
8	UTV Action	B	Hindi Movies	Top 12
9	Star Utsav Movies*	B	Hindi Movies	Top 17
10	Star Gold Select*	A	Hindi Movies	Top 18
11	National Geographic	A	Infotainment	Top 4
12	National Geographic Tamil	B	Infotainment	Top 10

13	National Geographic Telugu	B	Infotainment	Top 12
14	Nat Geo Wild	B	Infotainment	Top 8
15	Fox Life	B	Infotainment	Top 3
16	Star World	A	English General Entertainment	Top 4
17	Star Movies	A	English Movies	Top 3
18	Star Sports 1*	A	Sports	Top 3
19	Star Sports 2*	A	Sports	Top 4
20	Star Sports 3*	B	Sports	Top 5
21	Star Sports 1 Hindi*	A	Sports	Top 6
22	Star Sports 1 Tamil	A	Sports	Top 13
23	Star Sports 1 Kannada	A	Sports	Top 14
24	Star Sports 1 Telugu	A	Sports	Top 15
25	Star Sports 1 Bangla	A	Sports	Top 16
26	Star Sports Select 1	A	Sports	Top 11
27	Star Sports Select 2	A	Sports	Top 12
28	Star Sports First	B	Sports	Top 3
29	Maa TV	A	Regional Telugu General Entertainment	Top 4
30	Maa Gold	B	Regional Telugu General Movies	Top 7
31	Maa Music	B	Regional Telugu Music	Top 3
32	Maa Movies	A	Regional Telugu Movies	Top 4
33	Star Pravah	A	Regional Marathi General Entertainment	Top 4
34	Star Jalsha	A	Regional Bengali General Entertainment	Top 3
35	Jalsha Movies	A	Regional Bengali Movies	Top 3
36	Star Suvarna	A	Regional Kannada General Entertainment	Top 5
37	Suvarna Plus	B	Regional Kannada Movies	Top 4
38	Vijay	A	Regional Tamil General Entertainment	Top 4
39	Vijay Super	B	Regional Tamil General Entertainment	Top 10
40	Asianet	A	Regional Malayalam General Entertainment	Top 3
41	Asianet Plus	B	Regional Malayalam General Entertainment	Top 3
42	Asianet Movies	A	Regional Malayalam Movies	Top 3
43	Star Plus HD	A	Hindi General Entertainment	Top 3
44	Star Bharat HD	A	Hindi General Entertainment	Top 7
45	Star Gold HD	A	Hindi Movies	Top 3
46	UTV HD	A	Hindi Movies	Top 7
47	Star Gold Select HD	A	Hindi Movies	Top 8
48	National Geographic HD	A	Infotainment	Top 4
49	Nat Geo Wild HD	B	Infotainment	Top 5
50	Fox Life HD	B	Infotainment	Top 3
51	Baby TV HD	B	Kids	Top 4
52	Star World HD	A	English General Entertainment	Top 4
53	Star World Premiere HD	A	English General Entertainment	Top 7
54	Star Moves HD	A	English Movies	Top 3
55	Star Movies Select HD	A	English Movies	Top 7

56	Star Sports HD1*	A	Sports	Top 3
57	Star Sports HD2*	A	Sports	Top 4
58	Star Sports 1 HD Hindi*	A	Sports	Top 5
59	Star Sports Select HD 1	A	Sports	Top 6
60	Star Sports Select HD 2	A	Sports	Top 7
61	Maa HD	A	Regional Telugu General Entertainment	Top 4
62	Maa Movies HD	A	Regional Telugu Movies	Top 4
63	Star Pravah HD	A	Regional Marathi General Entertainment	Top 4
64	Star Jalsha HD	A	Regional Bengali General Entertainment	Top 3
65	Ja;sja Movies HD	A	Regional Bengali Movies	Top 3
66	Vijay HD	A	Regional Tamil General Entertainment	Top 4
67	Star Suvarna HD	A	Regional Kannada General Entertainment	Top 4
68	Asianet HD	A	Regional Malayalam General Entertainment	Top 3

**marked channels from the same genre need to placed consecutively in the required genre as mentioned against them, separately for SD and HD.*

Fox Life's LCN Rank would be measured against the following competing channels: FYI TV18, TLC, Discovery Turbo and similar channels.

The DPO may at its discretion swap LCN Rank of Star Sports 1, Star Sports 1 Hindi, Star Sports 1 Bangla, Star Sports 1 Tamil, Star Sports 1 kannada and Star Sports 1 Telugu with each other based on the DPO's requirements, as per Law.

TABLE C				
(Applicable to Part B)				
LCN Rank Requirements				
No.	Channel	Category	Genre	LCN Rank
1	Disney Channel	A	Kids	Top 3
2	Hungama TV	A	Kids	Top 5
3	Marvel HQ	A	Kids	Top 8
4	Disney Junior	B	Kids	Top 10
5	Disney International HD	A	English General Entertainment	Top 8

Illustrations

Calculation of Penetration Incentive (Applicable to Part A)

A. DPO who has presence in single Target Market (Subscribed to Multiple SVPs)

Active Platform Subscriber Base	25,000
Territory	Maharashtra/ Goa
Subscribed Bouquets	Marathi Value Bouquet, Hindi Value Bouquet, Tamil Value Bouquet
Monthly Average Subscriber Level for the Subscribed SVP Marathi	20,000
Monthly Average Subscriber Level for the Subscribed SVP Hindi	1,500
Monthly Average Subscriber Level for the Subscribed SVP Tamil	1,000

In this case, Penetration Incentive applicable for Subscribed Value Bouquets shall be as follows:

Monthly Average Subscriber Level for Subscribed Bouquets	Penetration Level of Bouquets	Qualifies Penetration Incentive (Yes/No)
$20,000+1,500+1,000=22,500$	$22,500/25,000 \times 100 = 90\%$	$\geq 75\%$ - Yes

Schedule IV

LCN DECLARATION

No.	Channel	Category	Genre	LCN No./EPG NO. as on date of execution of the SLA	LCN Rank as on the date of execution of the SLA
1	Star Plus	A	Hindi General Entertainment	N/A	1
2	Star Bharat	A	Hindi General Entertainment	N/A	7
3	Star Utsav	A	Hindi General Entertainment	N/A	20
4	Bindass	B	Hindi General Entertainment	N/A	18
5	Star Gold	A	Hindi Movies	N/A	1
6	Movies OK	B	Hindi Movies	N/A	6
7	UTV Movies	A	Hindi Movies	N/A	31
8	UTV Action	B	Hindi Movies	N/A	30
9	Star Utsav Movies	B	Hindi Movies	N/A	17
10	Star Gold Select	A	Hindi Movies	N/A	33

11	National Geographic	A	Infotainment	N/A	2
12	National Geographic Tamil	B	Infotainment	N/A	
13	National Geographic Telugu	B	Infotainment	N/A	
14	Nat Geo Wild	B	Infotainment	N/A	7
15	Fox Life	B	Infotainment	N/A	16
16	Star World	B	English General Entertainment	N/A	1
17	Star Movies	A	English Movies	N/A	1
18	Star Sports 1	A	Sports	N/A	1
19	Star Sports 2	A	Sports	N/A	2
20	Star Sports 3	B	Sports	N/A	3
21	Star Sports 1 Hindi	A	Sports	N/A	4
22	Star Sports 1 Tamil	A	Sports	N/A	
23	Star Sports 1 Kannada	A	Sports	N/A	
24	Star Sports 1 Telugu	A	Sports	N/A	
25	Star Sports 1 Bangla	A	Sports	N/A	
26	Star Sports Select 1	A	Sports	N/A	11
27	Star Sports Select 2	A	Sports	N/A	12
28	Star Sports First	B	Sports	N/A	14
29	Maa TV	A	Regional Telugu General Entertainment	N/A	3
30	Maa Gold	B	Regional Telugu General Entertainment	N/A	13
31	Maa Music	B	Regional Telugu Music	N/A	16
32	Maa Movies	A	Regional Telugu Movies	N/A	
33	Star Pavah	A	Regional Marathi General Entertainment	N/A	1
34	Star Jalsha	A	Regional Bengali General Entertainment	N/A	1
35	Jalsha Movies	A	Regional Bengali Movies	N/A	1
36	Star Suvarna	A	Regional Kannada General Entertainment	N/A	3
37	Survarna Plus	B	Regional Kannada Movies	N/A	
38	Vijay	A	Regional Tamil General Entertainment	N/A	3
39	Vijay Super	B	Regional Tamil General Entertainment	N/A	
40	Asianet	A	Regional Malayalam General Entertainment	N/A	2

41	Asianet Plus	B	Regional Malayalam General Entertainment	N/A	4
42	Asianet Movies	A	Regional Malayalam Movies	N/A	6
43	Disney Channel	A	Kids	N/A	11
44	Hungama TV	A	Kids	N/A	4
45	Marvel HQ	A	Kids	N/A	8
46	Disney Junior	B	Kids	N/A	9
47	Star Plus HD	A	Hindi General Entertainment	N/A	1
48	Star Bharat HD	A	Hindi General Entertainment	N/A	7
49	Star Gold HD	A	Hindi Movies	N/A	1
50	UTV HD	A	Hindi Movies	N/A	50
51	Star Gold Select HD	A	Hindi Movies	N/A	8
52	National Geographic HD	A	Infotainment	N/A	2
53	Nat Geo Wild HD	B	Infotainment	N/A	10
54	Fox Life HD	B	Infotainment	N/A	15
55	Baby TV HD	B	Kids	N/A	4
56	Star World HD	A	English General Entertainment	N/A	1
57	Star World Premiere HD	A	English General Entertainment	N/A	6
58	Disney International HD	A	English General Entertainment	N/A	7
59	Star Movies HD	A	English Movies	N/A	1
60	Star Movies Select HD	A	English Movies	N/A	20
61	Star Sports HD 1	A	Sports	N/A	1
62	Star Sports HD 2	A	Sports	N/A	2
63	Star Sports 1 HD Hindi	A	Sports	N/A	3
64	Star Sports Select HD 1	A	Sports	N/A	4
65	Star Sports Select HD 2	A	Sports	N/A	5
66	Maa HD	A	Regional Telugu General Entertainment	N/A	
67	Maa Movies HD	A	Regional Malayalam Movies	N/A	
68	Star Pravah HD	A	Regional Marathi General Entertainment	N/A	
69	Star Jalsha HD	A	Regional Bengali General Entertainment	N/A	1
70	Jalsha Movies HD	A	Regional Bengali Movies	N/A	1
71	Vijay HD	A	Regional Tamil General Entertainment	N/A	
72	Star Suvarna HD	A	Regional Kannada General Entertainment	N/A	
73	Asianet HD	A	Regional Malayalam General Entertainment	N/A	

66. Further, we may now proceed to specifically refer to LCN Rank Requirements as mentioned in Annexure C 1 of Schedule II of the Addendum Agreement and peruse the same for our satisfaction. For ready reference LCN Rank Requirement as per Annexure C 1 of Schedule II of the First Addendum Agreement reads as under: -

“To qualify for Penetration Incentive on the Subscribed Bouquets or Subscribed A-la-Carte Channels, the DPO must meet LCN Rank Requirements as given below:

- 1) *The DPO shall maintain the LCN Ranks for all the Subscribed Channels on the head ends of the DPO as per the LCN Rank as last reported to STAR in the month of April 2019, as declared in Schedule IV and as declared, during the Term of SLA.*
- 2) *In the event, the DPO has not subscribed/availed any of the channels prior to the execution of this SLA, then upon execution of this SLA, the DPO shall provide the LCN Rank for Such channels, as defined in Table B (Applicable to Part A) and Table C (Applicable to Part B) below, during the Term of the SLA subject to the following conditions: -*
 - i. *In case the DPO has different LCN Rank for any of the channels forming part of the subscribed Bouquet or subscribed a-lacarte channels on their platform EPG or has Multiple head ends with different LCN Ranks then the Worst LCN (highest numerical) for each Channel will be considered for the purpose LCN Rank Computation.*
 - ii. *DPO Can Qualify for Penetration Incentive only if the DPO meets LCN Ranks for all Channels forming part of the subscribed Bouquet or subscribed A-la-Cart Channels.*

iii. Deviation-up to three LCN Ranks for a maximum of two channels falling under category B as set out in Table B and Table C as applicable.”

[Emphasis Supplied]

67. From the perusal of the above, it is pertinent to mention that method of calculation of LCN Rank has not been clearly spelt out in the contract. Limited reference has been made in clause 2 (i) about the method of determining LCN Rank, when DPO has multiple Head Ends. Clause 2 (i) in simpler words denote that the computation of LCN Rank for channels on a platform, specifically for a DPO. The LCN Rank is the numerical order in which channels are listed on a DPO's Electronic Program Guide (EPG). For example, if a subscriber goes to the EPG to find a particular channel, they will find it listed according to its LCN Rank.
68. Clause 2 (i) explains that if a DPO has different LCN Ranks for the same channel on different head ends or on their platform EPG, then the highest numerical LCN Rank will be considered as the channel's LCN Rank for the purpose of computation. This means that if a channel has a lower LCN Rank on one head end or EPG, but a higher LCN Rank on another head end or EPG, then the higher LCN Rank will be considered as its LCN Rank for computation.
69. For example, let's say that Channel ABC is part of a subscriber's Bouquet or subscribed a-la-carte channel on a DPO's platform, and it is listed as LCN Rank 4 on Head End 1 and LCN Rank 6 on Head End 2. In this case, the Worst LCN (highest numerical) for Channel ABC will be considered, which is LCN Rank 6 on Head End 2. Therefore, for the purpose of LCN Rank Computation, Channel ABC

will be considered as having an LCN Rank of 6 on the DPO's platform EPG.

70. After careful consideration of the aforementioned information, it is important to state at the outset that the arrangement delineated in the binding SLA, including the ranking of the channels as set forth in Schedule IV of the agreement, has been in effect since the SLA's execution. Nevertheless, it should be noted that the arrangement was partially amended by way of the First Addendum dated 01-06-2019.
71. It is an undisputed fact that the Respondents did not raise any objection regarding the placement of their channels within the agreed bracket of ranks as per the SLA up until January 2021. It is only in February 2021 that the Respondents have alleged the displacement of their aforementioned channels, which ultimately led to the issuance of the Disconnection Notice dated 02-09-2021, and which has been contested by the Petitioner in the present proceedings.
72. In order to gain a comprehensive understanding of the present dispute, it is imperative that we provide a brief elucidation of the concept of **Logical Channel Number** and **Rank**, which lie at the very crux of the issue at hand.
 - **Logical Channel Number (LCN):** It is a unique numerical identifier assigned to a specific channel under the **Electronic Program Guide (EPG)**. The purpose of LCN is to enable viewers to easily locate and access their preferred channels. LCNs are classified into distinct range brackets, based on the genre of the channels. For instance, a Distribution Platform Operator (DPO) may allocate LCNs 50 to 100 for General Entertainment Category Channels, and LCNs 101 to 150 for "Hindi Movie Categories". The allocation of LCNs is governed

by the Interconnection Regulations, 2017, which will be expounded upon later.

- **Rank:** It refers to the position assigned to a particular channel within a specific genre. For instance, in the General Entertainment Category, if Channel 'A' is allotted Logical Channel Number 55, it may be assigned Rank 6, or any other rank determined by the methodology employed for computing the said rank. There is no uniform method of computing Rank of a specific channel in a specified genre prevailing in the Cable Industry.

73. The Respondent has contended with great vehemence that the Petitioner is in violation of his contractual obligations as per the SLA and that the placement of the Respondent's Channels has been adversely impacted by the insertion of new channels on previously blank LCN slots by the Petitioner, thereby prejudicing the rank of the Respondent's Channels.

74. Much has been argued by the respondent that not only has the petitioner breached the SLA, but has also contravened the provisions of Interconnection Regulations, 2017. We were beseeched by the counsel for respondent to implore upon the aforementioned aspect. Therefore, for ease of reference, Clause 18 of the Interconnection Regulations, 2017. Further, we may also refer Paras 97, 98, 99, 138, 139 of Explanatory Memorandum. It is pertinent to mention that Explanatory Memorandum is notified along the regulations, which serves the purpose of explaining the reasons behind formulation of the aforesaid regulation, the same are reproduced herein below: -

“Clause 18. Listing of channels in electronic programme guide. —

(1) Every broadcaster shall declare the genre of its channels and

such genre shall be either 'Devotional' or 'General Entertainment' or 'Infotainment' or 'Kids' or 'Movies' or 'Music' or 'News and Current Affairs' or 'Sports' or 'Miscellaneous'.

(2) It shall be mandatory for the distributor to place channels in the electronic programme guide, in such a way that the television channels of same genre, as declared by the broadcasters, are placed together consecutively and one channel shall appear at one place only:

Provided that all television channels of same language within the same genre shall appear together consecutively in the electronic programme guide:

Provided further that it shall be permissible to the distributor to place a channel under sub-genre within the genre declared for the channel by the broadcaster.

(3) Every distributor of television channels shall assign a unique channel number for each television channel available on the distribution network.

(4) The channel number once assigned to a particular television channel shall not be altered by the distributor for a period of at least one year from the date of such assignment:

Provided that this sub-regulation shall not apply in case the channel becomes unavailable on the distribution network:

Provided further that if a broadcaster changes the genre of a channel, then the channel number assigned to that particular television channel shall be changed to place such channel together with the channels of new genre in the electronic program guide.”

Para 97 of the Explanatory Memorandum: *“In response, most of the broadcasters opined that the placement of channels and placement fee should be brought under the ambit of regulatory framework. As per them, non-regulated placement and marketing fee makes the model non-transparent and create a back door entry by allowing negotiated agreements between DPOs and broadcasters for LCN.”*

Para 98 of the Explanatory Memorandum: *In these regulations the broadcasters have been given a complete freedom to declare the genre of their channels and in terms of the regulations, it has been mandated that a DPO shall place the channels in the EPG under the respective genres so declared by the broadcasters. Further it has also been mandated that DPOs shall place the channels of the same genre in such a manner that all TV channels of same language within the same genre shall appear together consecutively in the EPG. In order to curb the practice to frequently change LCN number, it has been mandated that LCN number once allocated will not be changed for duration of at least one year. Therefore, the placements of channels have been adequately regulated and necessary protection has been granted to the broadcaster so that their channels are not placed at any disadvantageous position in the EPG. Hence as such there is no requirement for a broadcaster to ask for a specific position in the EPG.*

Para 99 of the Explanatory Memorandum: *In the new regulatory framework, emphasis has been increased on consumer choice. Therefore, when consumers will choose only selected channels which they actually want to view, the importance of placement of channel reduces drastically. Further, in the regulatory framework, the*

carriage and placement have been clearly distinguished. The carriage fee as per demand of the stakeholders has been regulated and must carry provisions would ensure the access to the distribution networks in non- discriminatory manner. Earlier, these two kinds of fees were clubbed together by service providers and non payment of combined fee could have denied a channel the access to the network. Now the same will not be possible. Mandating provision for discount within ceiling of 15% for allocation of placement or LCN as some percentage of channel price (MRP) may not serve the purpose as it will create a non level playing field for pay channels vis-a-vis FTA channels as in case of FTA channels the MRP is nil. However, in case, a broadcaster still wishes to place its channel at a particular position or a specific number assigned to its channel, subject to the provisions of these regulations, the broadcaster may offer discount within the prescribed framework or pay the mutually agreed fee, after signing the interconnection agreement, to a distributor for placing the channel. It is important to note here that such interconnection agreements, signed for placement of channels, shall also be non-discriminatory. Such agreements, if any, shall be appended with the main interconnection agreement and would be filed with the Authority as per the regulations notified by the Authority from time to time. It will ensure transparency.

Para 138 of the Explanatory Memorandum: *The issue of genre classification was well articulated in the consultation paper titled as “Tariff Issues related to TV Services”. In the draft Tariff Order, seven genres were proposed and complete freedom was given to the broadcaster to classify their channels in any of the proposed genre. In terms of these regulations, the DPOs have been mandated to place*

the channels in the genre so declared by the broadcasters. There are around 800 TV channels in the country. If every broadcaster is allowed to create its own genre then there would be an unmanageably large number of genres which would cause great hardship and inconvenience to the consumers as it would be next to impossible for a consumer to scroll through EPG having lot of genres on their TV sets. Thus the proposal to allow broadcasters to create their own genres will be impracticable. Therefore the Authority has mandated that the broadcasters should declare the genre of its channel in any of the specified eight genres. To provide the flexibility to the broadcasters, miscellaneous genre has also been specified.

Para 139 of the Explanatory Memorandum: *Proper listing of channels in the EPG helps the subscribers in selecting the channel for the purpose of viewing. If the channels are listed on the basis of Television Rating Point (TRP) then it may cause change in the position of the channels from time to time based on the television rating point which will create annoyance to the subscribers who generally remembers the position of the channel in the EPG under a genre. Therefore, the listing of channel on the basis of TRP is not being mandated and it is left open to the distributor to decide listing of channels within the prescribed framework. The Authority is in agreement with the views of some of the stakeholders that sub-categorisation will help the consumer in selecting the channel of its choice for viewing and therefore the Authority has mandated the DPO to place channels in the EPG, in such a way that the TV channels of same genre, as declared by the broadcaster, are placed together consecutively and all TV channels of same language within*

the same genre shall appear together consecutively in the electronic programme guide.”

[Emphasis Supplied]

75. Now we may refer to the decision of the Hon'ble Supreme court of India, in the case of **Tata Iron & Steel Co. Ltd. v. CCE & Customs**, Citation: (2000) 3 SCC 472, Para 17, wherein, Hon'ble Supreme Court of India on effect of interpretative notes provided in the regulation had categorically observed as follows: -

“17. So far as the Interpretative Note to Rule 4 is concerned **it is no doubt true that the Interpretative Notes are part of the Rules and hence statutory.....**”

76. Thus, having perused and considered the above, we find no substance in the bald assertions of the respondent. The respondent has admitted to this essential fact that placement of TV Channels is not entirely regulated by strict scriptures of law.

77. The perusal of clause 18 of the Interconnection Agreement, 2017 and accompanying literature of TRAI on the aforesaid aspect, quite clearly makes it incumbent upon the DPO/MSO & the Broadcaster to observe the following: -

- Duty on Broadcaster: Clause 18 (1) makes it incumbent upon the broadcaster to declare the genre of its channel, which are divided into nine categories.
- Duty on Distributor: Clause 18 (2) makes it incumbent upon the distributor to place the channels in EPG in a manner that channels of same genre are placed together consecutively & in such a manner that one channel shall appear at one place only.

- Duty on Distributor: Clause 18 (3) makes it incumbent upon the distributor to assign a unique channel number or LCN for each television channel available on the distribution network.
- Duty on Distributor: Clause 18 (4) makes it incumbent upon the distributor to not alter the assigned LCN/UCN for period of one year at least.

- 78.** Having taken into consideration the above, it is apparent that Clause 18 of the Interconnection Regulations, 2017 do not apply to the issue pertaining to the ranking of the channels. They are limited in scope and only cast duty upon both broadcaster and distributor in limited sense. The duty is only with respect to LCN and not rank.
- 79.** The purpose of enacting Regulation 18 was to ensure convenience of the subscriber (customer). The convenience was never to be interpreted in such a way that it would amount to restrictive trade practice.
- 80.** The respondent's contention as per their interpretation of clause 18 is that the placement of the channels must be together and consecutive in serialized manner in same genre. This according to the Respondent incapacitates the petitioner of the ability to enter into new agreements on blank LCN with other broadcasters.
- 81.** The respondent has cited numerous judgments of Hon'ble the Supreme Court of India & the Hon'ble High Courts on the interpretation of the term "consecutive". To cement their argument further a wild leap has been made by citing a judgement on the issue of "seniority" in service matter. We find them of little assistance.
- 82.** These arguments do not impress upon us because on appreciative reading of clause 18 & Para 98 of the Explanatory Memorandum, we conclude that the term "Consecutive" used in Clause 18 for the

purposes of feasibility and functionality cannot be constructed in such a manner that it would mean they are seriatim. Thus, consecutive does not mean seriatim for purpose of Clause 18.

83. However, it would be worthwhile to clarify, through an illustration what was the intended object sought to be achieved by formulation of clause 18 of the interconnection regulation. The illustrations are provided herein below: -

Illustration I: Consider that under EPG, channel slot bracket of LCN No.'s 50 to 100 is reserved for General Entertainment Category (GEC) channels. However, there are only 20 channels that are being broadcasted and distributed on MSO'S platform in GEC Segment.

If the argument advanced by respondent is taken at face value, then First channel in the GEC would have to be assigned LCN No. 50 & if the same is to be treated as seriatim, then the last channel will be LCN No. 69. Because all 20 channels are placed consecutively in seriatim.

However, the prevailing practice in the cable industry is to place it at a distance, which could be as follows: -

Illustration II: Consider that under EPG, channel slot bracket of LCN No.'s 50 to 100 is reserved for General Entertainment Category (GEC) channels. However, there are only 20 channels that are being broadcasted and distributed on MSO'S platform in GEC Segment. Then the First Channel in GEC would be LCN No.50, however, the last channel would not be LCN No. 69, instead it could be LCN No. 100, as the same is not in seriatim. Hence the Placement of channel could be like Channel A-50, B-54, C-57, D-65 & so on. While ensuring they appear together in consecutive manner in EPG.

84. Taking into account the above it is pertinent to mention that the object of clause 18 & use term ‘consecutive’ was in relation to ensure that no “Blank” channels in form of Black screen are visible to the subscriber as the same would cause inconvenience to the subscriber. The same could not be allowed to be interpreted in such a manner as to conclude that there cannot be blank slots (not visible to subscriber) with the distributor.
85. The purpose of clause 18 was limited to ensure that visibility of blank slot to the subscriber is restricted. Hence, the designated authority while formulating the Delegate/Subordinate Legislation in form of Interconnection Regulations, 2017, in its correct wisdom decided not to impute blanket restriction under clause 18.
86. Furthermore, it is no one’s case that LCN No.’s of the respondent’s channel has been changed. It is an admitted position in these proceedings both in pleadings and during arguments that LCN No. of the Respondents channel has not been altered. However, the rank of the channels has been allegedly affected adversely as per Respondent.
87. Now, we must proceed to implore on the aspect of displacement of the ranks of the channels of respondent, which is basically the main dispute herein in aforementioned three petitions.
88. At the outset, it must be stated that placement of TV Channels on the platform of the broadcaster is partly regulated. The regulation is limited to the extent of declaration of genre, assignment of LCN/UCN & non-alteration of assigned LCN/UCN for period of 1 year at least, which is generally the lifetime of SLA.
89. The placement of TV Channels for the purpose of ‘Rank’ is unregulated field. The Para 98 of Explanatory Memorandum issued

by TRAI, concludes that currently there is no requirement to bring the same within the regulatory fold.

90. This Hon'ble Tribunal in its Judgement Dated 29-05-2018 in Broadcasting Appeal No. 02 of 2018 under Paras 18-19 has noted as follows with respect to regulation of placement of TV Channel. For ready reference the same are reproduced below: -

“18. On a careful reading of Paras 96 to 99 of the EM of Regulations of 2017, **it is found that carriage and placement have been treated differently.** Carriage fee has been defined to secure interconnection with placement provisions. It also recognises the fact that there can be an interconnection agreement. **There is nothing to suggest that after interconnection has been achieved through interconnection agreement or RIO, there cannot be a separate placement agreement at any later point of time.**

19. The discussion in the EM noted above and the provisions in the main Regulations such as Regulations 3(3) and 18 leave no manner of doubt that placement is a concept different from interconnection. Under the Regulations, placement is permitted subject to certain conditions without specifying any condition that any particular channel cannot find placement on the landing page. There is merit in the submission advanced on behalf of appellants that interconnection takes place on account of finalisation of carriage fee and this can be totally different from an agreement for placement. **The word "interconnection" cannot be taken as an equivalent of "placement" either in literary sense or technically.** Both are different concepts and placement will always follow interconnection. There can be interconnection

without placement but there can be no placement without interconnection.”

91. However, in a democracy & rule of law nothing can be left unregulated. There might be different method of regulating the unregulated. The method in the present case is commercial wisdom. The placement of TV Channels for the purpose of ‘Rank’ is regulated as per the terms of SLA & other allied agreements.

92. In the facts of the present case, the agreed upon range bracket for the purpose of rank has been reproduced herein above [Refer Para 65]. The same has been alleged to be violated by the Petitioner according to the Respondent.

93. We at this juncture consider it judicious to refer to the table supplied by the petitioner & the perusal of the same would denote that since April 2019, the L.C.N Ranks of the Respondent’s Channel has not been altered. The table is reproduced below: -

Channel Name	Genre Name and LCN No. in EPG		April, 2019 (as per Schedule IV of Addendum as reported)		December 2020 (as declared in Incentive Invoice of Dec, 2020)		February 2021 (as declared in Incentive Invoice of Feb, 2021)		July, 2021 (as declared in Incentive Invoice of July 2021)	
	Genre Name	First LCN No. for the Genre	LCN No.	LCN Rank	LCN No.	LCN Rank	LCN No.	LCN Rank	LCN No.	LCN Rank
Bindass	GEC	50	67	18	67	18	67	18	67	18
Star Utsav	GEC	50	69	20	69	20	69	20	69	20
Star Gold 2	Hindi Movies	90	95	6	95	6	95	6	95	6
Star Utsav Movies	Hindi Movies	90	106	17	106	17	106	17	106	17
UTV Action	Hindi Movies	90	119	30	119	30	119	30	119	30
UTV Movies	Hindi Movies	90	120	31	120	31	120	31	120	31
Star Gold Select	Hindi Movies	90	122	33	122	33	122	33	122	33
Maa Movies	Regional Telugu Movies	579	582		582		582		582	4

94. But having considered the above, we don't find merit in this contention either. The Petitioner has maintained both the LCN No. & Rank of the Respondents channel except in relation to Maa Movies, which the petitioner acknowledges that there was a misreporting and the same has been rectified. This acknowledgement was supplied to the Respondent by the Petitioner.
95. Further, it is pertinent to mention that there was no specific rank agreed upon the parties. The ranks were agreed in general numerical terms such as Top 10 or Top 17 or Top 20. This itself allowed the petitioner to deviate the rank of the channels of Respondent until they are in within the specified range of agreed upon rank. In this regard, reference may also be placed on Clause 2.iii of the LCN Rank Requirements as mentioned in Annexure C1 Schedule II of First Addendum. [Refer Para 65].
96. Due to the above, the petitioner was very well within his right to insert new channels on blank slots (not visible to customers), which might alter the rank of the respondent channel, but maintain the same within the agreed upon range.
97. At this juncture, it would be judicious for us to categorically state that the petitioner has not displaced the LCN Rank of the Respondent's Channels as per SLA & First Addendum. However, the respondent has maintained that Petitioner has displaced the same, the whole edifice of the respondent case stands on the single argument that Petitioner has deviated from the specific rank agreement as they were mandated to keep the LCN Rank as per reported ranks for the month of April 2019.
98. So far as the argument of the Respondent is concerned that Petitioner has deviated from the path as alleged by the Respondent. Even in this

regard the respondent is bound to fail as per his own conduct. To better understand this conundrum, we may now refer to some established principles governing law of contracts, which have been enunciated & affirmed by Hon'ble the Supreme Court of India.

99. Hon'ble the Supreme Court of India in the case titled as “**P. Dasa Muni Reddy v. P. Appa Rao**”, Citation: (1974) 2 SCC 725, in Para 13 has shared its wisdom on the point of doctrine of Waiver. The same reads as under: -

*“13. Abandonment of right is much more than mere waiver, acquiescence or laches. The decision of the High Court in the present case is that the appellant has waived the right to evict the respondent. **Waiver is an intentional relinquishment of a known right or advantage, benefit, claim or privilege which except for such waiver the party would have enjoyed. Waiver can also be a voluntary surrender of a right.** The doctrine of waiver has been applied in cases where landlords claimed forfeiture of lease or tenancy because of breach of some condition in the contract of tenancy. **The doctrine which the courts of law will recognise is a rule of judicial policy that a person will not be allowed to take inconsistent position to gain advantage through the aid of courts.** **Waiver some times partakes of the nature of an election. Waiver is consensual in nature. It implies a meeting of the minds. It is a matter of mutual intention. The doctrine does not depend on misrepresentation. Waiver actually requires two parties, one party waiving and another receiving the benefit of waiver.** There can be waiver so intended by one party and so understood by the other. **The essential element of waiver is that there must be a voluntary and intentional relinquishment of a right. The***

voluntary choice is the essence of waiver. There should exist an opportunity for choice between the relinquishment and an enforcement of the right in question. ...”

100. Hon’ble the Supreme Court of India in the case titled as “**Kanchan Udyog Ltd. v. United Spirits Ltd.**”, Citation: **(2017) 8 SCC 237**, in **Paras 23-24** has elaborated on the aspects of Doctrine of Waiver & Acquiescence. The same reads as under: -

23. Waiver by conduct was considered in P. Dasa Muni Reddy v. P. Appa Rao [P. Dasa Muni Reddy v. P. Appa Rao, (1974) 2 SCC 725], observing as follows: (SCC p. 729, para 13)

“13. Abandonment of right is much more than mere waiver, acquiescence or laches. ... Waiver is an intentional relinquishment of a known right or advantage, benefit, claim or privilege which except for such waiver the party would have enjoyed. Waiver can also be a voluntary surrender of a right. The doctrine of waiver has been applied in cases where landlords claimed forfeiture of lease or tenancy because of breach of some condition in the contract of tenancy. The doctrine which the courts of law will recognise is a rule of judicial policy that a person will not be allowed to take inconsistent position to gain advantage through the aid of courts. Waiver sometimes partakes of the nature of an election. Waiver is consensual in nature. It implies a meeting of the minds. It is a matter of mutual intention. The doctrine does not depend on misrepresentation. Waiver actually requires two parties, one party waiving and another receiving the benefit of waiver. There can be waiver so intended by one party and so understood by the other. The

essential element of waiver is that there must be a voluntary and intentional relinquishment of a right. The voluntary choice is the essence of waiver. There should exist an opportunity for choice between the relinquishment and an enforcement of the right in question.”

24. Waiver could also be deduced from acquiescence, was considered in *Waman Shrinivas Kini v. Ratilal Bhagwandas & Co.* [*Waman Shrinivas Kini v. Ratilal Bhagwandas & Co.*, 1959 Supp (2) SCR 217: AIR 1959 SC 689] observing as follows : (AIR p. 694, para 13)

*“13. ... Waiver is the abandonment of a right which normally everybody is at liberty to waive. A waiver is nothing unless it amounts to a release. It signifies nothing more than an intention not to insist upon the right. **It may be deduced from acquiescence or may be implied.**”*

101. Hon’ble the Supreme Court of India in the case titled as “**Ramji Dayawala & Sons (P) Ltd. v. Invest Import**”, Citation: (1981) 1 SCC 80, in **Para 17**, while elaborating on doctrine of sub silentio, has observed as follows: -

*“17. ...In the **facts of a given case acceptance of a suggestion may be sub silentio reinforced by the subsequent conduct.** True it is that the general rule is that an offer is not accepted by mere silence on the part of the offeree. **There may, however, be further facts which taken together with the offeree's silence constitute an acceptance.** One such case is where a part of the offer was disputed at the negotiation stage and the original offeree communicated that fact to the offerer showing that he understood the offer in a particular sense. This communication will probably*

amount to a counter offer in which case it may be that mere silence of the original offerer will constitute his acceptance (see Halsbury's Laws of England, 4th Edn., Vol. 9, para 251). Where there is a mistake as to terms of a document as in this case, amendment to the draft was suggested and a counter offer was made, the signatory to the original contract is not estopped by his signature from denying that he intended to make an offer in the terms set out in the document, to wit, the letter and the cable (*ibid.*, para 295). It can, therefore, be stated that where the contract is in a number of parts it is essential to the validity of the contract that the contracting party should either have assented to or taken to have assented to the same thing in the same sense or as it is sometimes put, there should be consensus ad idem. **And from this it follows that a party may be taken to have assented if he has so conducted himself as to be estopped from denying that he has so assented** (*ibid.*, para 288). Even apart from this, it would still be open to the party contending novatio to prove that he had not accepted a part of the original agreement though it has signed the agreement containing that part. It would in this connection be advantageous to refer to *R. v. Fulham, Hammersmith and Kensington Rent Tribunal; ex parte: Zerek* [(1951) 1 All ER 482] wherein an oral agreement was entered into between the landlord and a tenant for lease of unfurnished premises at a weekly rent of 35s. The landlord subsequently refused to grant the tenant possession unless he agreed to hire his furniture to the landlord for one year at a rental of £12 and to execute a document certifying, *inter alia*, that the letting was a furnished letting at a rent of 35s. a week. The tenant signed the document and entered

*into possession. Later the tenant applied to a rent tribunal to fix a reasonable rent for the premises as an unfurnished dwelling house under the Landlord and Tenant (Rent Control) Act, 1949. The tribunal accepted the tenant's evidence that the premises were originally let unfurnished and came to the conclusion that the document signed by the tenant did not constitute a valid agreement and did not modify or replace the earlier oral agreement and that the premises were not bona fide let furnished. The tribunal reduced the rent to 15s. a week. On an application by the landlord for an order of certiorari, motion for certiorari was refused and in so doing the subsequent written agreement was ignored and the previous oral agreement was accepted as genuine and binding. It would, therefore, be inappropriate to say that because the appellant has signed the subcontract, every part of it is accepted by him even though there is convincing evidence pointing to the contrary. It was, however, said that a subsequent negotiation or a repudiation of part of the contract cannot in any manner affect the concluded agreement. Reliance was placed on *Davies v. Sweet* [(1962) 2 WLR 525] the pertinent observation at p. 529 being as under:*

*“If there was originally a concluded bargain between the parties, this could only be got rid of by either (a) a mutual agreement to call off the sale, or (b) an agreement for a variation of the terms of the original contract. The mere fact that there have been negotiations which prove to be abortive and do not result in an enforceable agreement does not destroy the original contract: see *Perry v. Suffielas Ltd.* [(1916) 2 Ch 187 (CA)] ...”*

102. Hon'ble the Supreme Court of India in the case titled as "**H.R. Basavaraj v. Canara Bank**", Citation: (2010) 12 SCC 458, in **Paras 19 & 31**, while dealing with the issue of estoppel in contract law, has observed as follows: -

*"19. It might be useful at this juncture to turn to the decision of this Court in **Lata Construction v. Dr. Rameshchandra Ramniklal Shah [(2000) 1 SCC 586]** whereby this Court held that **if the rights under the old contract were kept alive even after the second agreement and rights under the first agreement had not been rescinded, then there was no substitution of contracts and, hence, no novation.***

*31. As stated by Lord Denman, in **Pickard v. Sears [(1837) 6 Ad & El 469]** and discussed in **B.L. Sreedhar v. K.M. Munireddy [(2003) 2 SCC 355]** , **estoppel is said to be based on the maxim, *allegans contrarium non est audiendus (a party is not to be heard to allege the contrary)* and is that species of presumption *juries et de jure (absolute or conclusive or irrebuttable presumption), where the fact presumed is taken to be true, not as against all the world, but against a particular party, and that only by reason of some act done; it is in truth a kind of argumentum ad hominem***. Estoppel is a complex legal notion, involving a combination of several essential elements, namely, statement to be acted upon, acting on the faith of it, resulting detriment to the actor. Estoppel is often described as a rule of evidence, as indeed it may be so described. But the whole concept is more correctly viewed as a substantive rule of law. Estoppel is different from contract both in its nature and consequences. **But the relationship between the parties must also be such that the imputed truth of the statement***

is a necessary step in the constitution of the cause of action. But the whole case of estoppel fails if the statement is not sufficiently clear and unqualified. [Ed.: As observed in B.L. Sreedhar v. K.M. Munireddy, (2003) 2 SCC 355, p. 365, para 16.]”

103. Similarly, Hon’ble the Supreme Court of India in the case titled as “**Cauvery Coffee Traders v. Hornor Resources (International) Co. Ltd.**”, Citation: **(2011) 10 SCC 420**, in **Paras 33-35**, while dealing with the issue of estoppel by conduct in contract law, has observed as follows: -

33. In *R.N. Gosain v. Yashpal Dhir* [(1992) 4 SCC 683: AIR 1993 SC 352] this Court has observed as under: (SCC pp. 687-88, para 10)

“10. Law does not permit a person to both approbate and reprobate. This principle is based on the doctrine of election which postulates that no party can accept and reject the same instrument and that ‘a person cannot say at one time that a transaction is valid and thereby obtain some advantage, to which he could only be entitled on the footing that it is valid, and then turn round and say it is void for the purpose of securing some other advantage’.”

34. A party cannot be permitted to “blow hot and cold”, “fast and loose” or “approbate and reprobate”. Where one knowingly accepts the benefits of a contract or conveyance or an order, is estopped to deny the validity or binding effect on him of such contract or conveyance or order. This rule is applied to do equity, however, it must not be applied in a manner as to violate the principles of right and good conscience. (Vide *Nagubai Ammal v. B. Shama Rao* [AIR 1956 SC 593] , *CIT v. V.MR.P. Firm Muar*

[AIR 1965 SC 1216] , Maharashtra SRTC v. Balwant Regular Motor Service [AIR 1969 SC 329] , P.R. Deshpande v. Maruti Balaram Haibatti [(1998) 6 SCC 507 : AIR 1998 SC 2979] , Babu Ram v. Indra Pal Singh [(1998) 6 SCC 358 : AIR 1998 SC 3021] , NTPC Ltd. v. Reshmi Constructions, Builders & Contractors [(2004) 2 SCC 663 : AIR 2004 SC 1330] , Ramesh Chandra Sankla v. Vikram Cement [(2008) 14 SCC 58 : (2009) 1 SCC (L&S) 706 : AIR 2009 SC 713] and Pradeep Oil Corpn. v. MCD [(2011) 5 SCC 270 : (2011) 2 SCC (Civ) 712] .)

35. Thus, it is evident that the doctrine of election is based on the rule of estoppel—the principle that one cannot approbate and reprobate inheres in it. The doctrine of estoppel by election is one of the species of estoppels in pais (or equitable estoppel), which is a rule in equity. By that law, a person may be precluded by his actions or conduct or silence when it is his duty to speak, from asserting a right which he otherwise would have had.”

104. Moreover, in the landmark case of ‘**Smith v. Hughes**’, (1871) LR 6 QB 597 (at p. 607), Blackburn J., had on the issue of consensus amongst parties to the terms of the contract had observed as follows:

“But I have more difficulty about the second point raised in the case. I apprehend that if one of the parties intends to make a contract on one set of terms and the other intends to make a contract on another set of terms, or, as it is sometimes expressed, if the parties are not ad idem, there is no contract, unless the circumstances are such as to preclude one of the parties from denying that he has agreed to the terms of the other...If, whatever a man’s real intentions may be, he so conducts himself that a reasonable man would believe that he was assenting to the terms

proposed by the other party, and that other party upon that belief enters into the contract with him, the man thus conducting himself would be equally bound as if had intended to agree to the other party's terms.”

105. In “**Central Inland Water Transport Corporation Ltd. v. Brojo Nath Ganguly**”, Citation: **(1986) 3 SCC 156**, Hon’ble the Supreme Court of India held that a party who remains silent and does not object to a breach of contract may be deemed to have acquiesced to the breach.

106. Thus, the argument of the Respondents in relation to maintenance of specific rank fails as per their conduct. As it is an admitted position that respondent had paid petitioner the incentive amount dues till January 2021.

107. Further as ground verification reports prior to January 2021 submitted by the respondent, it was evident that certain channels were shown having upward rank than compared to specific rank as alleged by the respondent. For ready reference a table in this regard is reproduced below: -

Channel Name	Prior to January 2021 as per ground verification. [Refer Para 10 @ pg. 317 of the Reply]		LCN Rank as per Schedule IV of Addendum & as reported by the Petitioner.
	LCN No.	LCN Rank	LCN Rank
Bindass	67	14	18
Star Utsav	69	16	20
Star Gold 2	95	05	06
Star Utsav Movies	106	11	17
UTV Action	119	18	30
UTV Movies	120	18	31
Star Gold Select	122	21	33
Maa Movies	582	02	Not Agreed

- 108.** Considering the above, if the case of the respondent is based on the essential argument that petitioner is not entitled to incentive as it has failed to maintain a specified rank as per the SLA, then in such circumstance even deviation of one rank, irrespective of whether the same was upward or downward, would have disentitled the petitioner from claiming incentive. However, as per their own admission, when on ground verification the Rank of channel ‘Bindass’ was 14 & allegedly agreed upon rank was 18, the respondent had still paid incentive amount to the petitioner (this amounts to an act of conduct on the part of the Respondent).
- 109.** The Respondent despite this alleged anomaly failed to act against the petitioner, in fact, they duly paid the petitioner the incentive dues for those periods. Now, this very action (of paying incentive) or inaction (of not disputing the same), has estopped the petitioner from raising the plea of specific rank before this Tribunal. Therefore, we believe in the facts of the present case; the doctrines of waiver & acquiescence along with sub-silentio is squarely applicable to the conduct of the Respondent.
- 110.** Thus, the assertions of the respondent in relation to displacement of its channel on the platform of the petitioner are unwarranted & unsubstantiated. We are not amenable to persuasions of the Respondent in this Regard.
- 111.** It is pertinent to mention that the Respondent has sent new draft of agreement by inserting new clauses in the agreement (Annexure P-27). For Ready Reference this newly suggested terms of agreement reads as under:

“STAR RIO Version 4 dated 15.10.2021.

(ADDRESSABLE SYSTEMS)

The terms and conditions of this Reference Interconnect Offer are drafted pursuant to the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable System) Regulations, 2017 and the Telecommunication (Broadcasting and Cable) Services (Eighth) (Addressable Systems) Tariff Order, 2017, both as amended from time to time.

The DPO may reach out to the following representatives of STAR for availing signals of Channels and/or any grievance(s):

Distribution Platform	Name	Contact No.	Email ID	Address
Digital Addressable Cable Television Systems, IPTV, HITS & DTH	Summit Grover/ Piyush Goyal/ Harish Rajan	011-43102704/05/06- Ext 207/ 022 6173 1780/ 022 6173 2425	Summit.grover@startv.com/ Piyush.goyal@startv.com/ Harish.Rajan@startv.com	Star House, Urmi Estate, 95 Ganpatrao Kadam Marg, Lower Parel (W), Mumbai, 400013, Maharashtra

SUBSCRIPTION LICENSE AGREEMENT

This Subscription License Agreement (“SLA”) is executed on the ____ day of _____, 20__ by and between:

STAR INDIA PRIVATE LIMITED, a company incorporated and registered under the Companies Act, 1956 and having GSTINs 07AAACN1335Q1ZA (Disney India, 1st Floor, Radisson Commercial Plaza, NH 8, Mahipalpur, New Delhi, 110037, 27AAACN133Q1Z8, (Star House, Urmi Estate, 95 Ganpatrao Kadam Marg, Lower Parel (W), Mumbai, 400013, Maharashtra),19AAACN133Q1Z5 (RENE Towers, 1842, Rajdanga Main Road, RB Connector, Kasba, Kolkata -700107, West Bengal) 36AAACN1335Q1Z9 (Plot No. 8-2-120/86/10, Opp: Park Hyatt Hotel, Road, No.2, Banjara Hills, Hyderabad- 500034, Telangana), 29AAACN1335Q1Z4 (No. 66/1-4, A- Bock, 7th Floor, Lake View Building No. 66/1-4, A-Block. 7th Floor, Lake View Building, Bagmane Tech Park, C V Raman Nagar, Bangalore 60093, Karnataka), 06AAACN1335Q1ZC (Star Centre, Plot No. 77, Institutional Area, Sec-32, Gurugram- 122001, Haryana) and office at Vatika Business Centre, Thapar House, Gate No. 1 Eastern & Central Wing, Third Floor, 124, Janpath, New Delhi-110001, bearing PAN No. AAACN1335Q and registered office at Star House, Urmi Estate, 95 Ganpatrao Kadam Marg, Lower Parel (W), Mumbai, 400013, Maharashtra (hereinafter referred to as “STAR”, which shall include its successors and assigns);

AND

DPO (M/s): _____

DPO’s Status (Mention Yes/No)

Company		Individual	
Partnership Firm		HUF	
Proprietorship Firm		Other	

DPO’s license/ registration:

Status of Registration/ Licenses of the DPO (DAS/DTH/ HITS/IPTV)	Name of registrant/ /License holder	Registration No.	Registered area of operation/,as per registration/license (if applicable)	Validity From To
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3. **Active Platform HD Subscriber Base** shall mean the Active Platform Subscriber Base who have subscribed for one or more HD channels from the DPO.
4. **Focus Market** shall mean the markets as set out in Table 1 of Section 1 of this Annexure where the DPO has Active Platform Subscriber Base.
5. **Hindi Speaking Markets (HSM)** shall mean all States & Union Territories (UT) excluding West Bengal, Maharashtra, Odisha, Arunachal Pradesh, Manipur, Meghalaya, Mizoram Nagaland, Tripura, Sikkim, Assam, Goa, Andhra Pradesh, Telangana, Karnataka, Tamil Nadu, Kerala, Lakshadweep and Puducherry.
6. **NESA** shall mean the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Sikkim and Assam.
7. **Specified Sports Channels** shall mean the Sports Channels as set out in **Table 2** of Section 1 of this Annexure.
8. **LCN Rank** shall mean the relative position of the channel in the relevant genre and language of the DPO's EPG.
9. **Penetration** shall mean the Active Subscribers of a Subscribed Channel divided by the Active Platform Subscriber Base of the DPO. Penetration shall be expressed in percentage (%).
10. **Qualifying Report** shall mean the reports to be provided by the DPO in the format set out in Qualifying Reports Section.
11. **Qualifying Report Deadline** shall mean seventh (7th) day from the end of each calendar month, on or before which, the DPO must provide the Qualifying Report to STAR.

Note:

1. It is clarified that the Channels which are not launched by STAR, will not be considered for the purpose of calculating Incentive. Such Channels will be considered for the purpose of Incentive only from the date of launch by STAR.
2. For the purpose of calculation of Active Platform Subscriber Base, Active Platform SD Subscriber Base Active Platform HD Subscriber Base and Penetration Percentage(%) for a particular month the average subscriber numbers of 7th, 14th, 21st, & 28th of that particular month will be considered.

SECTION 1- Penetration Requirements for Lead Channels and Specified Sports Channels

DPO must provide minimum Penetration for Lead Channel and Specified Sports Channels as listed in Table 1, in all the Focus Markets where the DPO is present, to be eligible for Incentive in such Focus Markets.

- a. To measure the Penetration of the Lead Channel, aggregate Penetration of SD and HD variants of the channels will be used. **[Refer Example 1 below]**

Example 1: A DPO operates in Kerala. DPO has an Active Platform Subscriber Base of 10,000. The DPO has 7000 Active Subscribers for Asianet and 1000 Active Subscribers for Asianet HD. The Penetration of Asianet will be measured as- $[(7000+1000)/10,000]=80\%$. In such a case the DPO may be eligible for incentive subject to fulfilling other conditions details out in this SLA.

Table 1- Minimum Penetration requirement for Lead Channel(s) and Specified Sports Channel

Focus Market	Lead Channel Name	Lead Channel Penetration	Specified Sports Channel Penetration
Andhra Pradesh, Telangana	Maa TV	75%	75%
Karnataka	Star Suvarna	75%	75%
Kerala, Lakshadweep	Asianet	75%	75%

_____ DPO

_____ STAR”

112. As per this new terms & conditions, which is yet to be accepted by the petitioner, the respondent has canvassed an argument that petitioner is not entitled to the incentive. This is not permissible because new contract is yet to be entered into. We are at present concerned with the earlier agreements dt. 24-02-2019 (SLA) (Annexure P-4) in B.P. No. 574 of 2021.

113. Another aspect is in regard to the payment of Marketing License Fee owed to the Petitioner. Though it is pleaded in the memo of the

petition, however, at the time of arguments by the petitioner, no arguments have been canvassed pertaining to the Marketing License Fees. Hence, we are not inclined to grant the same.

114. Consequently, it would be appropriate to sum up the aforesaid discussion, by answering the issues involved in the present petition, which are as follows: -

- I. **Issue I** is answered in Affirmative. The petitioner is entitled to receive the amount of incentive due from February 2021 to August 2022 as they have diligently maintained the LCN No. & LCN Rank of the Respondent's Channels as per the SLA.
- II. **Issue II** is answered in Negative. The petitioner has not displaced the channels of the respondents in the respective petitions. As per the above discussion, it is apparent that there is no breach of the conditions of Subscription License Agreement by the Petitioner.
- III. **Issue III** is academic in nature and has been explained in Para 72 of this judgement.
- IV. **Issue IV** is answered by emphatically stating that scope of Clause 18 of Interconnection Agreement is limited in nature and it does not govern placement of channels for purposes of Rank.
- V. **Issue V** is answered in Negative. The retransmission of channels on blank/vacant LCN Slots will not displace the Rank of the Channels of the respondent. As there is no uniform method of computing rank prevalent in cable industry. For ease of operational functionality, the method envisaged by the petitioner would be taken as correct method in the facts of present case. Conversely, this will not prevail if the SLA had at its inception contemplated a different method of computation.

However, in facts of the present case, SLA was silent on method of computation of Rank for the purpose of incentive.

- VI. **Issue VI** is answered in Affirmative. It is stated that petitioner has placed the channels of the respondent consecutively as per the mandate of Interconnection Regulations, 2017. Further the Assignment of Logical Channel Number is governed by Interconnection Regulations, 2017. On the other hand, there is no uniform practice of assignment & computation of “Rank”. They are unregulated & governed by terms of SLA & other allied agreements. [Refer Paras 88-89]
- VII. **Issue VII** is answered in Negative. The Petitioner is not entitled to Marketing Fees as the same has not been expressly argued before this tribunal. [Refer Paras 113]
- VIII. **Issue VIII** is answered in Affirmative. The Petitioner is entitled to ‘Set-Off’ its dues against the final amount as raised by the respondent in its disconnection notices.

115. Therefore, having considered the above, it would be appropriate to ascertain the financial claims raised by the petitioners in their respective petitions. The financial claims of the Petitioners are as follows: -

A. Financial Claims of the Petitioner in B.P. No. 574 of 2021: -

➤ Incentive Amount due to the Petitioner: -

<u>Period of Incentive</u>	<u>Quantum of Incentive</u>	<u>Annexures</u>
<u>FOR PERIOD I</u>		
February 2021	₹ 68,44,000/-	Annexure P-7
March 2021	₹ 67,98,642/-	Annexure P-7
April 2021	₹ 66,64,558/-	Annexure P-7
May 2021	₹ 64,90,000/-	Annexure P-7
June 2021	₹ 62,54,000/-	Annexure P-7

TOTAL	₹ 3,30,51,200/-	
FOR PERIOD II		
July 2021	₹ 62,54,000/-	Annexure P-7
August 2021	₹ 61,32,322/-	Annexure P-8
September 2021	₹ 61,31,674/-	Annexure P-26
October 2021	₹ 63,28,323/-	Annexure PW-1/30
November 2021	₹ 62,72,294/-	Annexure PW-1/30
December 2021	₹ 61,27,083/-	Annexure PW-1/30
January 2022	₹ 60,76,795/-	Annexure PW-1/30
Total	4,33,22,491/-	
FOR PERIOD III		
February 2022	₹ 60,02,887/-	These Figures were supplied by counsel for the Petitioner during Submission.
March 2022	₹ 60,19,469/-	
April 2022	₹ 59,73,873/-	
May 2022	₹ 59,44,221/-	
June 2022	₹ 58,43,063/-	
July 2022	₹ 57,45,886/-	
August 2022	₹ 57,09,786/-	
Total	₹ 4,12,39,185/-	
Final Total of Three Periods	₹ <u>11,76,12,876/-</u>	

➤ TAX DEDUCTED AT SOURCE (T.D.S.)

Period of TDS	Quantum of TDS	Annexures
June 2021	₹ 52,95,491/-	
July 2021	₹ 18,47,774/-	
Total Amount	₹ 71,43,265/-	

➤ Marketing Fees as per Advertising and Promotion Service Agreement dated 20.03.2021 [Annexure P-21]

Heading & Period	Quantum	Annexure
SOW NO.1 01.08.2021 to 08.08.2021	₹ 74,99,544/- plus taxes	Annexure P-22
<u>SOW NO. 1 & Amendment No. 1</u> <u>10.08.2021 to 17.08.2021</u>	₹ 88,49,462/-	Annexure P-23
SOW NO.2 09.08.2021 to 08.09.2021	₹ 1,01,33,760/-	Annexure P-24
<u>SOW NO.2 & Amendment No. 1</u> <u>18.08.2021 to 17.09.2021</u>	₹ 1,19,57,837 /-	Annexure P-25
TOTAL	₹ 2,08,07,299 /- [Arrived at by taking into account P-23 & P-25 jointly]	

❖ Final Amount after Computation of Three Heads: -

Final Amount of Incentives	₹ 11,76,12,876/-
Final Amount of TDS	₹ 71,43,265/-
Final Amount of Marketing Fees	₹ 2,08,07,299 /-
FINAL TOTAL	₹ 14,55,63,460/-

B. Financial Claims of the Petitioner in B.P. No. 575 of 2021: -

➤ **Incentive Amount:**

<u>Period of Incentive</u>	<u>Quantum of Incentive</u>	<u>Annexures</u>
<u>FOR PERIOD I</u>		
February 2021	₹ 41,38,194-	Annexure P-7
March 2021	₹ 41,30,000/-	Annexure P-7
April 2021	₹ 40,36,897/-	Annexure P-7
May 2021	₹ 39,73,195/-	Annexure P-7
June 2021	₹ 37,53,772/-	Annexure P-7
TOTAL	₹ 2,00,32,058/-	
<u>FOR PERIOD II</u>		
July 2021	₹ 37,82,586/-	Annexure P-7
August 2021	₹ 37,33,537/-	Annexure P-8
September 2021	₹ 37,80,388/-	Annexure P-21
October 2021	₹ 39,30,796/-	Annexure PW-1/25
November 2021	₹ 39,23,699/-	Annexure PW-1/25
December 2021	₹ 38,28,299/-	Annexure PW-1/25
January 2022	₹ 37,50,768/-	Annexure PW-1/30
Total	2,67,30,343/-	
<u>FOR PERIOD III</u>		
February 2022	₹ 37,07,756/-	These Figures were supplied by counsel for the Petitioner during Submission.
March 2022	₹ 37,34,260/-	
April 2022	₹ 37,13,668/-	
May 2022	₹ 37,26,052/-	
June 2022	₹ 36,34,648/-	
July 2022	₹ 35,60,873/-	
August 2022	₹ 35,57,680/-	
Total	₹ 2,56,34,937/-	
Final Total of Three Periods	₹ 7,23,97,338/-	

➤ **Tax Deducted at Source (T.D.S)**

Period of TDS	Quantum of TDS	Annexures
June 2021	₹ 52, 95, 491/-	
July 2021	₹ 18,47,774/-	
Total Amount	₹ 14,72,207/-	

➤ **Disputed Cheque Amount:**

Respondent has incorrectly accounted for a cheque of SITI Networks Ltd. (Rest of India Account) in lieu of the cheque of the Petitioner (East Account) against the outstanding of the Petitioner leading to non-accounting of Rs. 9,59,888/-.

➤ **Disputed Cheque Amount:**

Two cheques have been realized by the Respondent on 15.09.2021 & 16.09.2021. (I.e- Cheque No. 823992 & 823994) and thus Rs. 2,00,00,000/- has to be reduced from the outstanding amount.

❖ **Final Amount after Computation of Four Heads: -**

Final Amount of Incentives	₹ 7,23,97,338/-
Final Amount of TDS	₹ 14,72,207/-
Disputed Cheque Amount	₹ 9,59,888/-
Disputed Cheque Amount	₹ 2,00,00,000
FINAL TOTAL	₹ 9,48,29,433/-

C. Financial claims of the Petitioner in B.P. No. 576 of 2021: -

➤ **Incentive Amount due to the Petitioner: -**

<u>Period of Incentive</u>	<u>Quantum of Incentive</u>	<u>Annexures</u>
<u>FOR PERIOD I</u>		
February 2021	₹ 14,30,827/-	Annexure P-7
March 2021	₹ 14,30,251/-	Annexure P-7
April 2021	₹ 14,30,182/-	Annexure P-7
May 2021	₹ 13,33,400/-	Annexure P-7
June 2021	₹ 12,98,000/-	Annexure P-7
Total ₹69,22,660/-		
<u>FOR PERIOD II</u>		
July 2021	₹ 12,98,000/-	Annexure P-7
August 2021	₹ 12,53,054/-	Annexure P-8

September 2021	₹ 12,42,604/-	Annexure P-24
October 2021	₹ 12,56,261/-	Annexure PW-1/27
November 2021	₹ 12,31,614/-	Annexure PW-1/27
December 2021	₹ 11,86,030/-	Annexure PW-1/27
January 2022	₹ 11,79,710/-	Annexure PW-1/27
Total	₹ 86,47,273/-	
FOR PERIOD III		
February 2022	₹ 11,67,074/-	
March 2022	₹ 11,77,278/-	
April 2022	₹ 11,54,184/-	
May 2022	₹ 11,47,528/-	
June 2022	₹ 11,23,439/-	
July 2022	₹ 11,15,154/-	
August 2022	₹ 11,02,773/-	
Total	₹ 79,87,430/-	
Total of Three Periods	₹ 2,35,57,363/-	

TAX DEDUCTED AT SOURCE (T.D.S.)

Period of TDS	Quantum of TDS	Annexures
April -July 2021	₹ 24,98,235/-	
Total Amount	₹ 24,98,235/-	

- Marketing Fees as per Advertising and Promotion Service Agreement dated 20.03.2021 [Annexure P-21]

Heading & Period	Quantum	Annexure
SOW NO.1 13.08.2021 to 12.09.2021	₹ 02,71,872/-	Annexure P-23

- ❖ Final Amount after Computation of Three Heads: -

Final Amount of Incentives	₹ 2,35,57,363/-
Final Amount of TDS	₹ 24,98,235/-
Final Amount of Marketing Fees	₹ 02,71,872 /-
FINAL TOTAL	₹ 2,63,27,470/-

116. The above quoted figures are partly accepted by us. Therefore, we allow the financial claims of the petitioners as per the SLA & as per the calculation mentioned above in following terms: -

- A. Petitioner in B.P. No. 574 of 2021 is entitled to Incentive Amount upto August 2022 quantified at ₹ 11,76,12,876/-.
- B. Petitioner in B.P. No. 575 of 2021 is entitled to Incentive Amount upto August 2022 quantified at ₹ 7,23,97,338/-.
- C. Petitioner in B.P. No. 576 of 2021 is entitled to Incentive Amount upto August 2022 quantified at ₹ 2,35,57,363/-.
- D. **However, in the view of the aforesaid principles, the future liabilities regarding incentives will be governed, so long as the existing contract continues.**
- E. Though it has been mentioned in the petition (BP 575 of 2021), two cheques of ₹ 1 Crore each, bearing cheque no.s 823992 & 823994, which were realized after the issuance of Disconnection notice, but at the time of arguments, counsel for the petitioner have not submitted anything about the adjustment/setoff of these two cheques. Hence we are not inclined to adjudicate upon the same either.

117. On the quantum of TDS, the parties in B.P. No. 574 of 2021, in their Reply & Rejoinder have categorically admitted as follows: -

*“Para 16 of the Reply of the Respondent: The Petitioner is claiming that the Respondent has not accounted the TDS amount of Rs 71,43,265/- (Rupees Seventy-One Lakhs Forty-Three Thousand Two Hundred and Sixty Five only) for the invoices of June 2021 and July 2021. **It is submitted that the Respondent has received TDS certificates from the Petitioner on 1.11.2021 and the same has been accounted by the Respondent.**”*

“Para 17 of the Reply of the Respondent: It is submitted that after adjusting all payments, the Petitioner is liable to pay an outstanding subscription fee amount to Rs 18,21,561/- (Rupees

Eighteen Lakhs Twenty-One Thousand Five Hundred Sixty One only) considering billing for the month of September 2021. Copy of statement of accounts is annexed herewith as Annexure R4.”

“Para 34 of the Rejoinder by Petitioner: It is stated that as per the Statement of Accounts annexed to the Reply, the Respondent has stated that an amount of Rs 18,21,561/- is outstanding as on 07.11.2021 for billing upto September 2021.

*“Para 35 of the Rejoinder by Petitioner: **It is stated that the aforementioned amount is the TDS deducted on the payment made against September, 2021 invoice and the TDS certificate shall be made available in due course.**”*

“Para 36 of the Rejoinder by Petitioner: It is stated that the Petitioner has discharged all outstanding amounts till September, 2021 billing to the Respondent.”

- 118.** Therefore, having due regard of the above admittance on the part of the Parties in B.P. No. 574 of 2021. The aforesaid amount as admitted is allowed to be mutually adjusted between the parties as per terms of the agreement & arrangement arrived at by the parties therein.
- 119.** In B.P. No. 575 of 2021, it was contended by the Petitioner that the Respondent has incorrectly accounted for a cheque of Rs. 38,77,112/- (Cheque No. 544753) by SITI Networks Ltd (for Rest of India Account) instead of a cheque for Rs. 48,37,000/- (Cheque No. 544772) by the Petitioner [i.e- SITI Networks Ltd. (East Account)].
- 120.** It appears that the two aforementioned cheques were deposited in the wrong account due to the fault of the respondent as has been conveyed by the respondent to the petitioner in its e-mail dated 23.08.2021 (ANNEXURE P-20 of the Petition).

121. It seems that Cheque No. 544772, intended for the Petitioner/SITI Networks Ltd. (East Account) in the amount of Rs. 48,37,000/-, was mistakenly deposited in SITI Networks Ltd. (Rest of India Account), while Cheque No. 544753 worth Rs. 38,77,112 meant for SITI Networks Ltd. (Rest of India Account) was erroneously deposited in the Petitioner/SITI Networks Ltd. (East Account). As a result, there is a shortfall of Rs. 9,59,888/- in the amount that was supposed to be issued to the petitioner.
122. Thus, it is directed to the respondent that the aforementioned amount of Rs. 9,59,888/- is liable to be reduced from the demand amount in the Disconnection Notice unless already accounted for by the Respondent.
123. Subsequently, on the quantum of Interest, it would be prudent to refer to the binding directions of the Hon'ble Supreme Court of India in the case of "**Central Bank of India v. Ravindra**" citation: **(2002) 1 SCC 367**. This judgement has been followed in **(2010) 3 SCC 690** & recently relied upon in **(2021) 5 SCC 273**. Thus, in regard to the above, we are inclined to grant simple interest at the rate of 7 %.
124. **Accordingly, these petitions are allowed and pending MAs are disposed of.**
125. Having considered the pleadings, written & oral submissions of both set of the parties and considering the foregoing discussion. We are of the opinion that the Final Order in the present proceeding are as follow: -

A. Final Order in B.P. No. 574 of 2021

<u>S. No.</u>	<u>DIRECTIONS</u>
I.	Petitioner is entitled to the Incentive amount of ₹ 11,76,12,876/- as per the SLA.
II.	Petitioner is entitled to 7% Simple Interest on the Total Sum above figures from the date of the petition till realization.
III.	The Respondent Shall bear the cost of the litigation.
IV.	Any amount due, deposited, paid or retained vide earlier orders of this Hon'ble Tribunal shall be properly accounted for & adjusted.
V.	The petitioner is entitled to set off his dues in right earnest with the respondent.
VII.	The Registrar is directed to draw decree accordingly.

B. Final Order in B.P. No. 575 of 2021

<u>S. No.</u>	<u>DIRECTIONS</u>
I.	Petitioner is entitled to the Incentive amount of ₹ 7,23,97,338/- as per the SLA.
II.	Petitioner is entitled to a sum of ₹ 9,59,888/- for overall impact due to incorrectly accounting for a cheque.
III.	Petitioner is entitled to 7% Simple Interest on the Total Sum above figures from the date of the petition till realization.
IV.	The Respondent Shall bear the cost of the litigation.
V.	Any amount due, deposited, paid ore retained vide earlier orders of this Hon'ble Tribunal shall be properly accounted for & adjusted.
VI.	The Registrar is directed to draw decree accordingly.

C. Final Order in B.P. No. 576 of 2021

<u>S. No.</u>	<u>DIRECTIONS</u>
I.	Petitioner is entitled to the incentive amount of ₹ 2,35,57,363/- as per the SLA.
II.	Petitioner is entitled to 7% Simple Interest on the Total Sum above figures from the date of the petition till realization.
III.	The Respondent Shall bear the cost of the litigation.
IV.	Any amount due, deposited, paid or retained vide earlier orders of this Hon'ble Tribunal shall be properly accounted for & adjusted.
V.	The petitioner is entitled to set off his dues in right earnest with the respondent.
VI.	The Registrar is directed to draw decree accordingly.

(JUSTICE D. N. PATEL)

CHAIRPERSON

/NS/

(SUBODH KUMAR GUPTA)

MEMBER