

TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL

NEW DELHI

Dated 2nd April 2025

Broadcasting Petition No. 156 of 2017

Den Networks Limited

...Petitioner

Vs.

M.G. Cable Network

...Respondent

BEFORE:

HON'BLE MR. JUSTICE RAM KRISHNA GAUTAM, MEMBER

For Petitioner : Mr. Vibhav Srivastava, Advocate
Ms. Aashi Arora, Advocate
Ms. Rhea Yadav, Advocate

For Respondent : Mr. Joby P. Varghese, Advocate
Mr. Abhay Jikekar, Advocate
Ms. Mayury Pawar, Advocate

JUDGMENT

1. The present Petition, under Section 14, read with Section 14A of the Telecom Regulatory Authority of India Act, 1997 (As amended upto date) (hereinafter referred to as "**TRAI Act**"), has been filed by MSO

Den Network Limited, against Respondent i.e., Local Cable Operator, M.G Cable Network, bearing LCO Code No. LCONS009 in the Petitioner's system, with a prayer for a decree of Rs. 38,78,711/- (Rupees Thirty Eight Lakhs Seventy Eight Thousand Seven Hundred and Eleven only), due as subscription charges, as on 31.03.2017, with an interest, @ 18% per annum, from the date the amount became due, till the date of actual payment.

2. In brief, the Petition contains that Petitioner is a Multi System Operator (MSO), engaged in business of Cable Television Service provider, duly registered under the provisions of Section 3 of the Cable Television Network (Regulation) Act, 1995 (hereinafter referred to as Cable Television Act). The Respondent, a Local Cable Operator, as per TRAI Regulations, have received encrypted Cable Signal feeds of television channels from the addressable system of the Petitioner to retransmit the same, through its Cable Television Network, to the subscribers, in the city of Nashik. On 26.06.2008, a Share Purchase Agreement was entered between Den Digital Entertainment Network Limited (DDENL) and M/s Nasik City Cable Network (NCCN) wherein, Den Digital Entertainment Network Limited had acquired 51% equity shares of NCCN Private Limited and pursuant there to, the name of

NCCN Private Limited was changed to Den NCCN Private Limited. This Joint Venture 'Den NCCN Private Limited' was entered with the object "to carry on all or any of the business of Broadcasting, producing, buying, selling, trading, distributing, exhibiting, transmitting, telecasting and exporting programmers, produced in house or taken on franchise through various media including video, satellite, direct to operator, satellite television, cable television and radio and to provide, install, operate and maintain, buy, sell, import, export, exchange, design, develop, renovate, discover, research, improve relay, distribute, redistribute, transmit, receive, broadcast, exhibit all kinds of communications, wave communications, under water communications, service network media, satellite communications including value added services such as interactive televisions, internet, email, V-sat, telephonic video shopping, entertainment, infotainment, tele-shopping, E-commerce, Games, Data transmissions, Data warehousing, Computer networking, Business process outsourcing, Video conferencing and to establish links via satellite uplink and downlink through available reception systems". The Share Purchase agreement, dated 26.06.2008 is **Annexure P-1** to Petition.

3. As per implementation of Model Interconnect Regulations in year 2015, it was informed to all LCOs that they need to execute a DAS Interconnect Agreement with the Petitioner. But despite several request, it was not got executed by Respondent. Having left with no option, the Petitioner issued a notice to Respondent, with regard to disconnection of signals, within statutory period of 03 weeks, in case of failure to execute Interconnect Agreement. This notice is **Annexure P-2 (Colly)** to Petition.
4. Respondent, with other LCOs, filed a Civil Suit No. 153/2015, challenging disconnect notice, issued by Petitioner, wherein, Ad Interim Injunction was claimed. Court of Civil Judge Senior Division, Nashik, vide Injunction Order dated 01.04.2015, restrained Petitioner. This order is **Annexure P-3** to Petition.
5. Under the garb of this Injunction Order, Respondent, with other LCOs, stopped making payments, towards subscription charges, and this jurisdiction as well as Injunction Order was challenged by Petitioner, and ultimately, vide Order dated 29.03.2017, this Injunction Order was got in-effected. This discontinuation Order is **Annexure-4** to Petition. Despite vacation of this Ad Interim Injunction Order, Respondent ignored making payment to the Petitioner. An

outstanding subscription charge, as on 31.03.2017, was Rs. 38,78,711/- (Rupees Thirty Eight Lakhs Seventy Eight Thousand Seven Hundred and Eleven only). The copy of the Statement of Accounts, being maintained by Petitioner Company, depicting this outstanding dues, is **Annexure P-5** to Petition.

6. Upon implementation of digitalisation in the City of Nashik, which falls under Phase II of DAS regime, the Petitioner had repeatedly requested Respondent and other LCOs, to come forward, to execute a DAS Interconnect Agreement, with the Petitioner, in view of mandate of law. But of no avail. Neither outstanding subscription charges were paid nor Set Top Boxes issued by Petitioner, were returned. Rather, total outstanding liability of Respondent, as on 31.03.2017, remained Rs. 38,78,711/- (Rupees Thirty Eight Lakhs Seventy Eight Thousand Seven Hundred and Eleven only) with Petitioner's right to realise interest @ 18% per annum from the date of due to actual realisation towards above Principal amount.

7. The Respondent, being a Local Cable Operator, as per TRAI Regulations, having received encrypted Cable Television Signals of television channels from the addressable system of the Petitioner, to retransmit the same, through its Cable Television Network, to the

subscribers, in the city of Nashik, having enjoyed the supply of signals, provided to it, by Petitioner, under the grab of injunction order, was duty bound to make payment of outstanding dues towards subscription amount in the tune of Rs. 38,78,711/- (Rupees Thirty Eight Lakhs Seventy Eight Thousand Seven Hundred and Eleven only) as on 31.03.2017. A cause of action, within the jurisdiction of this Tribunal, had arisen, for this Petition, and this Petition, by Mr Siddharth Priya Srivastava, Manager of the Petitioner Company, duly authorised to file this Petition, by board resolution, **Annexure P-6** to Petition, has been filed with above prayer for a decree against Respondent to pay the Petitioner, a sum of Rs. 38,78,711/- (Rupees Thirty Eight Lakhs Seventy Eight Thousand Seven Hundred and Eleven only), as on 31.03.2017, towards the outstanding subscription charges, as well as interest thereon @ 18% per annum, from the date it became due, till the actual date of realization, with a further direction to Respondent to return all the Set Top Boxes, in good working conditions, which has been issued to him, or in lieu thereof, to make payment of an amount @ Rs 1999/- per Set Top Boxes, with a decree for cost of this Petition, as well as other reliefs, which this Tribunal deem fit.

8. Respondent, in its reply, denied the contention, with specific mention, that Petition is wholly misconceived, not maintainable, deserving its dismissal at the outset. The Local Cable Operators of Nashik, on or around 11.07.2006, formed a partnership firm, in the name and style of M/s Nasik City Cable Network (NCCN), for conducting the business of Cable Network, particularly in the City of Nashik. NCCN was set up for the purpose of providing Cable TV networks, services along with cable advertisement, broadcasting systems, providing internet services, digital transmissions and conditional access system through cable TV network and other related activities to its customers and for that purpose NCCN, set up a control room in the premises bearing Nos. 104, 106 and 107 on the 1st floor of building known as Mayur Plaza at Dwarka, Nashik. At the time of this constitution, about 18,000 cable connectivity's were there in the city of Nashik. NCCN has invested about Rs. 95 Lakhs for setting up this business.

9. Subsequently, for further expansion of the Cable Television business of NCCN, the partnership firm was converted and reconstituted as a Private Limited Company, of which Respondent was share holder. Accordingly, Company by the name of 'Nashik City Cable Networks Private Limited' was got incorporated on 04.06.2007, as hereinafter

referred to as NCCN Private Limited. The entire business of partnership firm, NCCN was sold to NCCN Private Limited and this was by way of a registered deed.

10. Petitioner Company approached Share holders of NCCN Private Limited, including Respondent, with a proposal to acquire 51% equity share of NCCN Private Limited and as per consent of all, a share purchase agreement, dated 26.06.2008, was got executed, between Petitioner and 47 Shareholders of NCCN Private Limited. This was agreed therein that Petitioner while retaining its separate identity had agreed to do business jointly with NCCN Private Limited, under a Joint Venture, on the terms and conditions of Share Purchase agreement in the name of "Den Nasik City Cable Network Private Limited". The object of Joint Venture was given in Article 4 of Share Purchase Agreement, reproduced in Petition as above. This Share Purchase Agreement, dated 26.06.2008, is **Annexure P-1** to Petition. As per clause 5.1 of the Agreement, companies in the Joint Venture, agreed to run their business, in Joint Venture, with the business of retransmission of Cable TV signals. But, Petitioner Company, in collusion with some of the shareholders of JVC, floated companies, with the diversion of JVC, in breach and violation of the Share

Purchase Agreement, dated 26.06.2008. Rather, Petitioner Company, in collusion with its affiliates called for an illegal EGOM of the JVC on 16.03.2013, wherein illegal board resolution, that JVC will pursue the cable television business only under the analogue mode and will not pursue the cable television business under the digital mode was got passed. Then after Respondent was compelled to execute Interconnection Agreement with Petitioner in its terms and condition, followed by a public notice, issued on 14.03.2015. This was objected by Respondent and other LCO's. Ultimately, a Civil Suit No. 153 of 2015, with a prayer for injunction, was got filed, before Civil Court Nashik, wherein, injunction order was got passed. The oppression and mismanagement by Petitioner was also raised, by way of Petition No. 104 of 2011, before Company Law Board, Principal Bench, Delhi.

11. The Telecommunication (Broadcasting and Cable Services) Interconnection (Digital Addressable Cable Television System) 7th Amendment Regulation, 2016, was promulgated by Regulatory Authority, in between, and it was challenged before Writ Courts, by Respondent and others. The application under Order VII Rule 11 of CPC, in view of Section 15 and 27 of the TRAI Act, 1997, was got filed before Civil Court Nashik, in Civil Suit No. 153 of 2015, wherein,

injunction order was ceased to operate, vide order dated 29.03.2017. Though Company Law Appellate Tribunal had passed Order dated 31.01.2017, in favour of Respondent, that there were financial irregularities in Den Nasik City Cable Networks, under the control of the Petitioner Company. Both of the appeal, by Petitioner and Respondent, before Company Law Appellate Tribunal was under adjudication. After the vacation of the injunction order, 29.03.2017, Respondent was coerced compelled and its signals were got disconnected on 01.04.2017.

12. Detailed monthly invoices, qua the alleged outstanding, has never been served upon Respondent, nor was ever due. Rather, Petitioner is to prove it as to how a sum of Rs. 38,78,711/- (Rupees Thirty Eight Lakhs Seventy Eight Thousand Seven Hundred and Eleven only), is due and payable against Respondent. Admittedly, till date, there is no Interconnect agreement, executed in between parties, nor, monthly invoices, claiming subscription charges, were ever issued against Respondent, nor, it was there in the Order of City Civil Court, Nashik. Hence, no cause of action was there, and in case of no Interconnect agreement, recovery Petition was not maintainable in view of law settled by this Tribunal itself.

13. The Set Top Boxes, having been purchased for consideration, belongs to Respondent. But, to evade taxes, the purchase invoices, were issued by Petitioner, in the name of 'activation charges'. A Tariff Regulation stipulate either sale or lease of Set Top Boxes. There is no provision for supply of STB's on payment of activation charges. Respondent, being the purchaser, never required to return the STB's or its value to Petitioner. But in case of proof otherwise, he is entitled to be held discharged on the principles of equitable set off, in view of Respondent's dues, qua dividend, against Petitioner Company. Hence, prayer for dismissal of this Petition was there.

14. The Replication cum Rejoinder was with reiteration of contention of Petition and denial of contention of reply. The services availed, under the effect of Injunction order of a Court, having no jurisdiction, had been requested to be paid as its outstanding subscription charges for that period. As per Statement of Account, annexed with the Petition, and interest, in the tune of 18% per annum, over this, from the date of due, till actual payment, with a further prayer for return of Set Top Boxes, issued to Respondent, LCOs, or to make payment @ Rs. 1999 per STB in lieu thereof.

15. On the basis of pleadings of both sides, following issues were framed on 12.01.2018:

(i) Whether the Petitioner is entitled for amount alongwith interest and STBs from the Respondent, as prayed for in the respective Petition?

(ii) Whether the Respondent has migrated to any other MSO and/or has been receiving signal feed from any other MSO without complying with the Interconnection Regulations of TRAI?

16. Petitioner filed its evidence, by way of affidavit of Mr Siddharth Atmaram Kapse. Respondent filed its affidavit of R.V Jayalakshmi, wife of Ravoori Suryaseshagiri, sole Proprietor of Respondent Company.

17. Written Submission of both side were filed on record.

18. On the basis of Pleadings of both side, statement made on the bar in Open Court and the order sheet previously recorded by this Tribunal, the matter appeared for adjudication was got narrowed, vide order dated 26.04.2023, in the order sheet, and it is better to get it reiterated at this place, before making discussion over issues. The same is being reproduced as below:

“Order dated 26.04.2023

- 1. Learned Counsel for both side are present. Learned Counsel for Petitioner while advancing arguments, argued that as per DAS Regulations, a public notice of three weeks for entering into Interconnect Regulation, or to face consequence of deactivation, was issued. But the Respondent filed a Civil Suit before the Civil Court, Nasik, wherein, ad-interim injunction was issued in the month of April 2015, on the date of filing of suit, before issuing notice to present Petitioner.*
- 2. Ultimately, Petitioner was to continue the supply to Respondent. Objection before Civil Court, was raised with regard to non-maintainability of the original suit before Civil Court and jurisdiction being of this Tribunal. This was decided in favour of Petitioner in the month of March 2017. Hence, under the mandate of Civil Court, the signals were continued to be supplied and STBs activated for all those period of about two years, for which subscription amount became due, and is being claimed.*
- 3. The interim order of Civil Court itself reveals that the supply of signal and continuation of STB's by present Petitioner who was defendant No. 2 in above Civil proceeding, was admitted by present Respondent, who was Plaintiff of above Civil Suit. Hence, the contention with regard to STBs may not be raised otherwise.*
- 4. Hence, the claim for the value of STBs, as well as for above subscription amount, is the nut-shell dispute, to be decided in these Petitions.*

5. *Learned Counsel for Respondent disputed the factum with regard to ownership of STBs. But when this Tribunal apprised the Model Interconnect Regulation, which itself provides that ownership of STBs shall remain with the MSOs, it was mentioned to be gone through under the Regulations by Counsel for Respondent. It was being admitted that for the period of injunction order duration, the subscription amount is ready to be paid because of mandate of Civil Court order, which was finally got vacated by the Court concern.*
 6. *Hence, this Tribunal itself reveals the correct proposition of law that once a benefit has been availed under the ad-Interim injunction order of the Civil Court, which was subsequently found to be without jurisdiction, then that benefit is to be restored. Under above legal situation, learned Counsel of both side are being requested to give specific calculation with regard to subscription amount for above period of temporary injunction duration.*
 7. *The depreciation value of the STBs, which are with proof of being issued, and activated by present Petitioner, in above period of injunction order, be also calculated and filed in a brief statement, by way of affidavit by Counsel for Petitioner as well as Respondent, within four weeks.*
 8. *List the matter for 'further hearing' on 18.07.2023."*
19. In compliance of above order, Learned Counsel for Petitioner, filed its affidavit of Vikas Rawat on behalf of Petitioner, stating the calculation

sheet from the period 01.04.2015 to 29.03.2017 and Respondent filed its report, in form of affidavit of R.V Jayalaxmi.

20. Heard arguments of Learned Counsels for both side and gone through materials placed on record.

21. Hon'ble Apex Court in **Anil Rishi Vs. Gurbaksh Singh – AIR 2006 SC**

1971 has propounded that onus to prove a fact is on the person who asserts it. Under Section 102 of the Indian Evidence Act, initial onus is always on the plaintiff to prove his case and if he discharges, the onus shifts to defendant. It has further been propounded in **Premlata Vs. Arhant Kumar Jain- AIR 1976 SC 626** that where both parties have already produced whatever evidence they had, the question of burden of proof ceases to have any importance. But while appreciating the question of burden of proof and misplacing the burden of proof on a particular party and recording of findings in a particular way will definitely vitiate the judgment. The old principle propounded by Privy Council in **Lakshman Vs. Venkateswarloo – AIR 1949 PC 278** still holds good that burden of proof on the pleadings never shifts, it always remains constant. Factually proving of a case in his favour is cost upon plaintiff when he fulfils, onus shifts over defendants to adduce rebutting evidence to meet the case made out by plaintiff. Onus may

again shift to plaintiff. Hon'ble Apex Court in **State of J&K Vs. Hindustan Forest Co. (2006) 12 SCC 198** has propounded that the plaintiff cannot obviously take advantage of the weakness of defendant. The plaintiff must stand upon evidence adduced by him. Though unlike a criminal case, in civil cases there is no mandate for proving fact beyond reasonable doubt, but even preponderance of probabilities may serve as a good basis of decision, as was propounded in **M. Krishnan Vs Vijay Singh- 2001 CrLJ 4705**. Hon'ble Apex Court in **Raghvamma Vs. A Cherry Chamma – AIR 1964 SC 136** has propounded that burden and onus of proof, are two different things. Burden of proof lies upon a person who has to prove the facts and it never shifts. Onus of proof shifts. Such shifting of onus is a continuous process in evaluation of evidence. In all civil cases, required degree of proof is preponderance of probabilities.

22. **Issue No. 1**

The undisputed fact was that, that a Share Purchase Agreement, dated 26.06.2008, was entered in between Den Digital Entertainment Network Limited (DDENL) and M/s Nasik City Cable Network (NCCN). As per above agreement, Den Digital Entertainment Network Limited acquired 51% of equity shares of NCCN Private Limited. Pursuant to

this agreement, the name of NCCN Private Limited got changed to 'Den NCCN Private Limited' and it became a Joint Venture, with regard to business, being carried on, as such, at the time of above agreement. The admission by reply, is with specific mention, that Nasik City Cable Network, with about 18,000 cable connectivity, spread over entire city of Nashik, with investment of about Rs. 95 Lakhs, on the equipment's of it, for setting up its business of Cable Network, was a partnership firm, entered in between, on around 11.07.2006, by certain Local Cable Operators of Nasik, in the name of M/s Nasik City Cable Network (NCCN), and this was for the business of Cable Network, particularly in the City of Nashik. This business was being operated from the premises, bearing Nos. 104, 106 and 107 on the 1st Floor of building known as Mayur Plaza at Dwarka Nasik. Meaning thereby, it was a Partnership concern i.e., an independent legal entity.

In Para 6 of the reply, admission is that, this Partnership firm was changed into a Private Limited Company, of which, Respondent was a shareholder. All the assets of firm, was transferred to this Company, through registered deed. Meaning thereby, this independent legal entity, NCCN Private Limited, was separate than the

entity of its Share holder. Subsequently, 51 % and more, share was taken by present Petitioner by way of admitted agreement of purchase of shares. As per agreement, not under dispute, Joint Venture was to operate business, for which this agreement was there. Meaning thereby, the Joint Venture was MSO and present Respondent, was operating as a Cable Business Operator, was LCO. For about 06 years, there remains no conflict. Admittedly, Nasik was updated in DAS form, and Phase II digitalization was adopted in above area. Cable Network Regulation came in operation, and this mandated, entering of Interconnect Agreement, as per above Regulation, for which repeated request has been made by Petitioner to its LCOs, for entering into DAS Interconnect Agreement, with the Petitioner, in view of law, promulgated regarding the subject. The statutory period of 03 weeks' notice, to LCO with regard to disconnection, in non-compliance of Interconnect Regulations was got published and the same is **Annexure P-2 (Colly)** to Petition. The undisputed fact is that Civil Suit No. 153/ 2015, challenging the disconnection notice, was got filed by Respondent and other LCOs, as the plaintiff of above suit, in Court of Civil Judge, Senior Division, Nashik, wherein, Ad-Interim Injunction Order, dated 01.04.2015, was

got passed, and it was extended repeatedly, with final vacation on 29.03.2017. **Annexure P-3** and **Annexure P-4** to Petition, is with those documents. The claim for outstanding subscription dues, for this period of Injunction, is being made, by saying that it was due, to be paid by present Respondent as on 31.03.2017, in the tune of Rs. 38,78,711/- (Rupees Thirty Eight Lakhs Seventy Eight Thousand Seven Hundred and Eleven only). This contention has been denied by saying that, invoices were never raised, and were not payable. Whereas, the Statement of Accounts, Annexed with this Petition, as well as evidence filed in affidavit, fully establishes above subscription dues, payable by Respondent to Petitioner, for the period of operation of Injunction Order, which was passed by a forum, having not jurisdiction. Hence, this ought to be paid, by Respondent to the Petitioner. This has been fully proved by way of affidavit, filed in evidence, with no Statement of Accounts filed by Respondent. Hence, for this Principal Amount of subscription dues, Petitioner has fully proved it.

The repeated Judgement of this Tribunal, as well as financial and fiscal scenario, with regard to the interest being paid in the present period under consideration and the business restraints in Cable Network, the equitable and just interest, repeatedly ordered to

be paid, had been held to be of 9% per annum, Simple Interest. Hence, under this litigation too, the award of 9% simple interest, from the date of accrual i.e., 31.03.2017 to date of actual payment, over above outstanding subscription amount of Rs. 38,78,711/- (Rupees Thirty Eight Lakhs Seventy Eight Thousand Seven Hundred and Eleven only), will be just and equitable and is to be awarded in favour of Petitioner as against the Respondent.

So far as the number of STBs, and mandatory Injunction for return of it, with a direction for making payment @ Rs. 1999/- per STBs, in case of failure to return, is concerned, the situation herein is otherwise. Nowhere in the Petition, it has been said, that how much number of STBs, were issued? and when to Petitioner? and how many are to be returned in good and working condition? and in case of failure, how many are to be compensated? @ Rs. 1999/- per STBs. Rather, a general contention is there, that Petitioner had "...also retain with itself the Set Top Boxes issued by the Petitioner to the Respondent for deployment at subscribers' premises, which are the exclusive property of the Petitioner." How many STBs were there? When they were issued? To whom they were issued? What were the costs, at the time of purchase? And what was the depreciation value,

at the time of filing of this Petition?, was not pleaded at all. No pleading, with regard to migration, to some other MSO, with a specific allegation, is there. Though, in an affidavit, filed in reply, to order of this Tribunal, the number of STBs with IDs, have been given by Petitioner and the Annexure, filed with this affidavit, reveals STBs to be 1280 in numbers. But, nowhere it was specified as to what was the purchase cost of each of the STBs and when they were issued and what was the real cost with depreciation value of them. More so, this was neither a pleading, nor evidence. The law settled by Apex Court in **2008 (2) AWC 1769 (SC) Anathula Sudhakar Vs. P. Buchi Reddy** “no evidence or arguments can be looked into or considered in absence of pleadings and issues.

Hon’ble Apex Court in **Kashi Nath Vs. Jaganath (2003) 8 SCC 740** has propounded that adverse inference is to be drawn, when the pleadings and evidences are self-contradictory.

A full Bench of Hon’ble Apex Court in a settled proposition of law **Moran Mar Catholicos Vs. Thukalan Paulo Avira & Ors AIR 1959 (SC) 31** (05 Judge Bench) has propounded that plaintiff cannot be allowed to set up a new case in his evidence. He cannot be allowed to go outside his pleading, and lead evidence on fact not pleaded.

While elaborating provision of Order VII Rule 11(d) of Code of Civil Procedure 1908, in **Chotaben and Anr. Vs. Kiritbhai Jalkrushnabhai Thakkar (2018)6 SCC 422** has propounded that averment made in plaint is only to be considered, nor written statement or application of defendant is to be seen.

Trite law is that Court cannot travel beyond pleadings. Arguments beyond pleadings, don't form part of pleading, in any manner. The legal framework clearly establishes that Court cannot grant relief that has not been specifically pleaded in the pleading. The whole object of pleadings, is to narrow down parties, into definite issues, and to make the other party aware of the contention and to prevent surprise at the hearing. Hence, the golden rule of pleading is that, no evidence beyond pleading could be taken or led.

In present case, no specific pleading, with regard to number of STBs, said to be issued, by whom to whom? When issued? Where issued? What were the cost at the time of their purchase? What was the depreciated value? To whom it was migrated? When it was migrated? etc., etc. Hence, for this relief, Petitioner failed to plead and prove. Accordingly, for this relief, it cannot be granted.

This Issue No. 1, with regard to outstanding subscription dues, for the period of injunction order, in the tune of Rs. 38,78,711/- (Rupees Thirty Eight Lakhs Seventy Eight Thousand Seven Hundred and Eleven only), as on 31.03.2017, with a simple interest @ 9% per annum over, above principal amount, from the date of accrual to actual payment date, is being decided in favour of Petitioner. With regard to STBs as well as migration, it is being decided against Petitioner.

23. Issue No. 2

This issue relates with, migration to any other MSO, without complying with the Interconnect Regulations of TRAI. This was not specifically pleaded, nor proved, as to who was that MSO? To whom it was migrated? When it was migrated? Hence, under the lack of specific pleading, in this regard, as well as proof of same, Petitioner failed to discharge its burden to prove of this fact.

Under above pretext, this issue is being decided against the Petitioner.

24. On the basis of discussions made above, this Petition merits to be allowed, and decreed for outstanding subscription dues, as above, in the tune of Rs. 38,78,711/- (Rupees Thirty Eight Lakhs Seventy Eight

Thousand Seven Hundred and Eleven only), as on 31.03.2017, with a simple interest @9% per annum, over above subscription amount, from the date of accrual, on 31.03.2017, to date of actual payment, as against Respondent, in favour of Petitioner.

ORDER

The Petition is being partly decreed, with a direction to Respondent, for making payment, within two months of this Judgement, Rs. 38,78,711/- (Rupees Thirty Eight Lakhs Seventy Eight Thousand Seven Hundred and Eleven only), along with simple interest @9% per annum over above amount, from the date of accrual i.e., 31.03.2017, till actual date of payment, in the Tribunal, for making payment, to Petitioner, and in case of failure, the same may be realised, as its execution.

Formal order / decree be got prepared by office, accordingly.

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(Justice Ram Krishna Gautam)
Member

02.04.2025
/BN/