

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

**Dated: 27/02/2025**

**R A/6/2022**

WITH

**MISC APPLICATION/360/2024**

IN

**BROADCASTING PETITION/463/2017**

With

**MISC APPLICATION/114/2024**

With

**MISC APPLICATION/191/2023**

With

**MISC APPLICATION/261/2023**

With

**MISC APPLICATION/294/2022**

With

**E A/4/2022**

Zee Entertainment Enterprise Ltd

....Petitioner(s)

Versus

Moon Network Pvt. Ltd.anr

....Respondent(s)

**BEFORE**

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

**HON'BLE MR. SUBODH KUMAR GUPTA (MEMBER)**

**For**

**For Respondents Advocate**

**Applicants/Appellants/Petitioners  
Advocate**

**Mr. Upender Thakur  
Ms. Akshita Nain**

**Mr. B.P. Singh Dhakray  
Mr. Shakti Singh Dhakray**

**ORDER**

1. This Review Application has been preferred by the Judgement Debtor. Broadcasting Petition No. 463 of 2017 was preferred by Zee Entertainment Enterprise Ltd. (Maharashtra) under Section 14 to be read with Section 14A of Telecom Regulatory Authority of India Act, 1997 for recovery of outstanding amount Rs.1,18,04,830/- with interest as per agreement entered between the parties to this litigation.

2. The Broadcasting Petition No.463 of 2017 has been argued in detail at the time of final hearing and the judgement was passed by this Tribunal vide order dated 20.4.2022 and the decree was passed on 27.4.2022.

3. **The Judgement Debtor has not preferred appeal under Section 18 of Telecom Regulatory Authority of India Act, 1997 before Hon'ble the Supreme Court of India.**

4. The Judgement Debtor has preferred Review Application for reviewing judgement and order passed this Tribunal dated 20.4.2022 in Broadcasting No. 463 of 2017. This Review Application was preferred on 8.7.2022.

5. Counsel appearing for the judgement debtor submitted that the aforesaid miscellaneous applications have also been preferred by the Judgement Debtor in this Review Application at different intervals of time.

6. Learned counsel appearing for the Judgement Debtor Mr. B.P. Dhakrey has submitted that:

(i) There is no authority letter given by the Petitioner in favor of Himanshu Kaushik S/o Dinesh Kaushik, in B.P. No.463/2017, which reveals the final judgment /decree dt. 20-04-2022 has been obtained by playing fraud.

(ii) The Petitioner has already enjoyed the TDS of Rs. 7,50,000/- but now under malafide intention para no. 9 & 10 of Counter Affidavit dt. 11-09-2024 has willfully declined any benefit of TDS of Rs 7,50000/- which reveals fraud has been played by the Petitioner.

(iii) The quantum of claim in original B.P. No. 463/2017 claimed Rs. 1,18,04,830/- with Affidavit, but this Hon'ble Tribunal has turned down the bogus claim of Sports Channel for Rs. 4,60,000/- by the Petitioner because the Petitioner did not challenge the deduction of Rs. 4,60,000/- towards Sports Channel in any appeal before Hon'ble Supreme Court this is also an example of committing fraud in claiming bogus claim of Sports Channel, which reveals the fraud played by the Petitioner willfully and deliberately.

(iv) Decree for Third Party- M/S Turner International Indian Pvt. Ltd. for Rs. 16,08,390/- obtained in Impugned Judgment/ Decree dt. 20-04-2022 without

arraying him as necessary party, is also apparent willfully fraud played by the Petitioner as ruled by Apex Court in the case of: -

- a. *Moreshar Yadaorao Mahajan Vs Vyanktesh S. Bedi (2022) SCC Online 1307 - Para 17, 18,19,20, & 21*
- b. *Mumbai International Airport P Ltd. Vs Regency Convention Centre & Hotels Pvt. Ltd. & Ors. (2010) 7 SCC 417- Para 15*

(v) The Counter Affidavit dt. 06-09-2024 supported by the Affidavit of Anurp Narula S/o Sunil Kumar Narula has been filed without any Authority Letter from the Petitioner, which is also apparent fraud being played by the Petitioner in the Court proceedings.

**(vi)** Over and above the aforesaid arguments, it is further submitted by the counsel for the Judgement Debtor that for unwritten agreement original petitioner (Decree Holder) cannot charge anything from the original respondent (judgement debtor.)

**(vii)** It is also submitted the learned counsel for the Judgement Debtor that interest claimed by the Decree Holder, which is @18 % p.a., is excessive and cannot be more than 8% p.a.

7. Counsel appearing for the judgement debtor has relied upon the following decisions:

**(a) (2022) SCC online SC 1307 (paragraph nos.17 to 21); and**

**(b) (2010) 7 SCC 417 (paragraphs no.15); and**

**(c) Broadcasting Petition No.145 of 2014 judgment delivered by this Tribunal dated 23.5.2017.**

8. On the basis of the aforesaid decisions it is submitted by the learned counsel for the Judgement Debtor that the judgment and decree passed by this Tribunal deserves to be modified and the original petition deserves to be dismissed on account of fraud committed by the original petitioner.

9. Counsel appearing for the Decree Holder submitted that the Review Application is not an appeal in disguise. Learned counsel appearing for the Decree Holder submitted that in the Broadcasting Petition No.463 of 2017 reply and rejoinder affidavits were filed and in detail the **matter was argued out by the original respondent (Judgment Debtor). Now no Review Application can be preferred for left out arguments.**

10. It is further submitted by the counsel for the Decree Holder that the aforesaid five points along with additional two points which are argued by the Judgement Debtor are infact not tenable at law. The factum of authority letter was never raised in the reply filed by the Judgement Debtor in Broadcasting Petition No.463 of 2017 nor this factual issue has been raised in the present Review Application preferred by the judgment debtor.

**11.** Counsel appearing for the Decree Holder submitted that so far as argument about sports channel is concerned, this amount of Rs.4,60,000/- was not given by the judgement of this Tribunal to the Decree Holder. It always happens that in a money suit that the plaintiff is claiming the higher amount and Court is ultimately passing decree for the lesser amount than what is claimed.

**12.** It is further submitted by the counsel for the Decree Holder that so far as the decree for third party – M/s. Turner International India Private Ltd. for Rs.16,08,390/- is concerned, no error has been committed by this Tribunal while deciding Broadcasting Petition No.463 of 2017 because original Petitioner (Decree Holder) is authorised by M/s. Turner International India Private Ltd. for distribution of channels namely;

- (i) HBO,**
- (ii) Cartoon Network,**
- (iii) Pogo**

**13.** These channels were distributed through petitioner by the Judgement Debtor and the amount was not paid by the Judgment Debtor. Petitioner being an agent of M/s. Turner International India Private Ltd. are bound to recover the aforesaid amount of Rs.16,08,390/- from the Judgement Debtor which is not paid by the respondent and, therefore, no error has been committed by this Tribunal by

deciding Broadcasting Petition No.463 of 2017 and this amount was included in the decretal amount.

**14.** Counsel appearing for the Decree Holder submitted that so far as issue raised in this Review Application about counter affidavit dated 6.9.2024 which is a reply in the Review Application which has been filed by one Mr. Anurup Narula S/o. Sunil Kumar Narula is a Manager (Legal), Zee Entertainment Enterprise Limited since last six years and he has filed an affidavit. He is fully authorized by Zee Entertainment Enterprise Limited to file petitions and reply on behalf of Zee Entertainment Enterprise Limited.

**15.** It is further submitted by the counsel for the Decree Holder that the argument about the unwritten agreement and the interest which is based upon a contract to be levied upon the unpaid decretal amount or upon unpaid distribution charges have already been argued out and it is decided and the same point cannot be raised again and again in a Review Application. The Judgement Debtor has not preferred an appeal against the judgement and decree passed by this Tribunal in B.P. No.463 of 2017. Counsel appearing for the Decree Holder has placed reliance upon the following decisions 2020:-

**(i) (2020) 2 SCC 677 (paragraph nos. 25 TO 33)**

**(ii) (1979) 4 SCC 389 (paragraph no. 4)**

**(iii) (1975) 1 SCC 674 (paragraph nos. 1 and 2)**

**(iv) (1982) 3 ALL ER 141 WLR 1155**

**(v) (1997) 8 SCC 155 (paragraph nos. 7 to 9)**

**(vi) (2006) 4 SCC 78 (paragraph nos. 13 to 18)**

**(vii) B.P. No.877 of 2012 (R.A. No.1 of 2020) judgement delivered by this Tribunal dated 18.7.2022 (paragraph nos.5 to 7)**

**16.** On the basis of the aforesaid facts and laws it is pointed out by the learned counsel appearing for the Decree Holder that the Review Application preferred by the Judgement Debtor is not tenable at law and the Judgement Debtor cannot argue the matter like an appeal before this Tribunal. Appeal is tenable at law before Hon'ble the Supreme Court of India. Even for left out arguments the review petition is not tenable at law. Moreover, the points which are never raised in the reply of the Broadcasting Petition No.463 of 2017 they also cannot be raised in this Review Application. Even several points have not been raised in the Review Application and has been argued out orally at the time of arguments or at the time of final hearing of this Review Application by the Judgement Debtor and hence, this Review Application may kindly be dismissed with cost.

## **Reasons and Analysis**

17. Having heard the learned counsel for both the sides and looking to the facts and circumstances of the case and looking to the decisions rendered by Hon'ble the Supreme Court of India and by this Tribunal, we see no reason to entertain this **Review Application and the same is hereby dismissed for the following reasons:**

(i) This Review Application has been preferred by the original respondent (Judgment Debtor) against the judgment and decree passed by this Tribunal in B.P. No.463 of 2017 judgment dated 20.4.2022. The judgment and decree passed in the aforesaid Broadcasting Petition, is for Rs.1,13,44,830/- which is payable by the Judgment Debtor to the decree holder. The interest at 1.5% p.a. was also awarded **because this rate of interest was mentioned in the agreement between the parties to this litigation especially in Clause 9(iii) of the agreement.** This **interest was payable from** the date of filing of the Broadcasting Petition **i.e. w.e.f. 22.11.2017 till actual date of payment.** In the Broadcasting Petition No.463 of 2017 the reply affidavit was also filed by the Judgment Debtor. **The present Review Application is travelling beyond the reply filed by the original respondent (Judgment Debtor) who is applicant in the Review Application.**

(ii) The arguments which are canvassed by the counsel for the applicant in the Review Application (by the Judgment Debtor) are not tenable at law because in their arguments there is repetition of the arguments which are already canvassed at the time of final hearing of B.P. No.463 of 2017 and some of the arguments were never raised in reply in B.P. No.463 of 2017.

(iii) So far as the arguments of the Judgment Debtor about the authority letter of Mr. Himanshu Kaushik is concerned who has filed the original petition, this factual aspect was never raised in the reply filed by the original respondent (Judgment Debtor) who is the applicant in the Review Application. Similarly, this point has also not been raised in the Review Application.

(iv) So far as arguments about TDS of Rs.7,50,000/- is concerned, this factual aspect was never raised in the reply filed by the original respondent (Judgment Debtor). In fact this factual position has already been denied by the original petitioner (Decree Holder) and, therefore, this issue cannot be decided in a review. Only error apparent on the face of records has to be pointed out in the Review Application. Highly disputed questions based upon facts cannot be raised in the Review Application.

(v) So far as arguments of Judgment Debtor about Rs.4,60,000/- for the Sports Channels is concerned, this amount has never been awarded to the original petitioner. It is never included in the decretal amount.

(vi) So far as arguments about M/s. Turner International India Pvt. Ltd. is concerned, it appears that there is no error has been committed by this Tribunal because the original petitioner (Decree Holder) is authorized by M/s. Turner International India Pvt. Ltd. for distribution of channels viz. – “HBO”, “Cartoon Network” and “Pogo”.

**18.** The original petitioner (Decree Holder) has given these channels to the respondent for further distribution to the customers and the original respondent (Judgment Debtor) has not paid the amount at Rs.16,08,390/- and, therefore, this amount was rightly included in the decretal amount to be paid by the Judgment Debtor. There is no error, much less, an error apparent on the face of the record, committed by this Tribunal while deciding this issue in B.P. No.463 of 2017.

**19.** So far as affidavit filed by Mr. Anurup Narula S/o. Mr. Sunil Kumar Narula on behalf of Decree Holder is concerned, he is the Manager (Legal) of Zee Entertainment Enterprise Ltd. since last six years.

**20.** So far as the arguments about unwritten agreement and interest is concerned, the same has already been decided on merits by this Tribunal in B.P. No.463 of 2017 and this issue cannot be again argued because Review Application is not **an appeal in disguise**. The Judgement Debtor can always prefer an appeal against the judgment and order passed by this Tribunal.

**21.** Thus, no error has been committed by this Tribunal while passing the judgment and order in B.P. No.463 of 2017 dated 20.4.2022.

**22.** Moreover, it has been held by Hon'ble The Supreme Court: -

**“(i)In the case of PARSION DEVI V. SUMITRI DEVI, reported in(1997) 8 SCC 715,the Hon’ble Supreme Court in Para – 7 to 9 held as under:**

*7. It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In Thungabhadra Industries Ltd. v. Govt. of A.P. (SCR at p. 186) this Court opined: “What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an ‘error apparent on the face of the record’). The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an ‘error apparent on the face of the record’, for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by ‘error apparent’. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error.”*

(Emphasis ours)

8. Again, in Meera Bhanja v. Nirmala Kumari Choudhury while quoting with approval a passage from Aribam Tuleshwar Sharma v. Aribam Pishak Sharma this Court once again held that review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be “reheard and corrected”. A review petition, it must be remembered has a limited purpose and cannot be allowed to be “an appeal in disguise”.

(Emphasis Supplied)

**(ii) In the case of HARIDAS DAS V. USHAL RANI BANKIK, reported in (2006) 4 SCC 78, the Hon’ble Supreme Court in Para – 13 to 18 held as under:**

*13. In order to appreciate the scope of a review, Section 114 CPC has to be read, but this section does not even adumbrate the ambit of interference expected of the court since it merely states that it “may make such order thereon as it thinks fit”. The parameters are prescribed in Order 47 CPC and for the purposes of this lis, permit the defendant to press for a rehearing “on account of some mistake or error apparent on the face of the records or for any other sufficient reason”. The former part of the rule deals with a situation attributable to the applicant, and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible. Neither of them postulate a rehearing of the dispute because a party had not highlighted all the aspects of the case or could perhaps have argued them more forcefully and/or cited binding precedents to the court and thereby enjoyed a favourable verdict. This is amply evident from the Explanation to Rule 1 of*

Order 47 which states that the fact that the decision on a question of law on which the judgment of the court is based has been reversed or modified by the subsequent decision of a superior court in any other case, shall not be a ground for the review of such judgment. Where the order in question is appealable the aggrieved party has adequate and efficacious remedy and the court should exercise the power to review its order with the greatest circumspection. This Court in *Thungabhadra Industries Ltd. v. Govt. of A.P.* held as follows:

(SCR p. 186)

“[T]here is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterized as vitiated by ‘error apparent’. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. ... where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out.”

14. In *Meera Bhanja v. Nirmala Kumari Choudhury* it was held that:

“8. It is well settled that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC. In connection with the limitation of the powers of the court under Order 47 Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution, this Court, in Aribam Tuleswar Sharma v. Aribam Pishak Sharma speaking through Chinnappa Reddy, J. has made the following pertinent observations: ‘It is true there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on

the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found, it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court.’ ” (SCC pp. 172-73, para8)

15. A perusal of Order 47 Rule 1 shows that review of a judgment or an order could be sought: (a) from the discovery of new and important matters or evidence which after the exercise of due diligence was not within the knowledge of the applicant; (b) such important matter or evidence could not be produced by the applicant at the time when the decree was passed or order made; and (c) on account of some mistake or error apparent on the face of the record or any other sufficient reason.

16. In Aribam Tuleswar Sharma v. Aribam Pishak Sharma this Court held that there are definite limits to the exercise of power of review. In that case, an application under Order 47 Rule 1 read with Section 151 of the Code was filed which was allowed and the order passed by the Judicial Commissioner was set aside and the writ petition was dismissed. On an appeal to this Court it was held as under: (SCC p. 390, para 3) “It is true as observed by this Court in Shivdeo Singh v. State of Punjab there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may

*also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate powers which may enable an appellate court to correct all manner of errors committed by the subordinate court.*

17. *The judgment in Aribam case has been followed in Meera Bhanja. In that case, it has been reiterated that an error apparent on the face of the record for acquiring jurisdiction to review must be such an error which may strike one on a mere looking at the record and would not require any long-drawn process of reasoning. The following observations in connection with an error apparent on the face of the record in Satyanarayan Laxminarayan Hegde v. Millikarjun Bhavanappa Tirumale were also noted: (AIR p. 137) “An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. Where an alleged error is far from self-evident and if it can be established, it has to be established, by lengthy and complicated arguments, such an error cannot be cured by a writ of certiorari according to the rule governing the powers of the superior court to issue such a writ.” (SCR pp. 901-02)*

18. *It is also pertinent to mention the observations of this Court in Parsion Devi v. Sumitri Devi. Relying upon the judgments in Aribam and Meera Bhanja it was observed as under: (SCC p. 719, para 9)*

*“9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be ‘reheard and corrected’. A review petition, it must be remembered has a limited purpose and cannot be allowed to be ‘an appeal in disguise’.”*

**(Emphasis Supplied)**

**23. In view of the aforesaid decisions and the factual aspects, it appears that there is no substance in this Review Application and the same is hereby dismissed.**

**24.** The aforesaid facts and judgements make the present case different from the facts narrated in the decisions, upon which the Judgement Debtor has placed reliance upon.

**25. In view of the aforesaid dismissal of the Review Application, all the pending Miscellaneous Applications in this Review Applications are also hereby dismissed.**

**26.** E.A. No.4 of 2022 is adjourned to 27.5.2025.

**(JUSTICE D. N. PATEL)  
CHAIRPERSON**

**(SUBODH KUMAR GUPTA)  
MEMBER**

/NS/