

**TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL**

**NEW DELHI**

**Dated 11<sup>th</sup> September 2025**

**Cyber Appeal No. 27 of 2019**

Vodafone Idea Limited

... Appellant

Vs.

Daffodils Furnishing and Ceramic Traders & Ors

... Respondents

**BEFORE:**

**HON'BLE MR. JUSTICE RAM KRISHNA GAUTAM, MEMBER**

Appellant

:

Mr Meet Malhotra, Sr. Adv.

Mr Kaushik Moitra, Ms Subhalaksmi Sen,

Ms Shambhavi Kashyap & Ms Pallak Singh,

Advocates for Vodafone Idea Ltd.

For Respondent

:

Mr. Vibhav Srivastava, Ms Aashi Arora, Ms

Rhea Yadav & Mr Shivam Sachdeva, Ms

Manika Priyadarshini & Mr Ayush Kumar

Srivastava, Advocates (R-1)

Mr. Rahul Bali, Advocate (R-2)

Dr Hemant Gupta & Mr R. John, Advocate

(R-3)

**JUDGMENT**

1. It is an Appeal under Section 57(1) of Information Technology Act, 2000 read with Rule 3(1) of the Cyber Appellate Tribunal (Procedure) Rules, 2000 by Appellant Vodafone Idea Ltd., against Daffodils Furnishing and Ceramic Traders and others, Respondent No.1 Complainant of the Petition, RBL Bank Limited - Respondent No.2, ICICI Bank Limited - Respondent No.3 and One Unknown, against Impugned Judgment/ Order, dated 12 July 2019, passed by Principal Secretary, Information Technology, Government of Maharashtra/ Adjudicating Officer, in Complaint Case No. 33 of 2015, Daffodils Furnishing and Ceramic Traders through Rajendra M. Ahuja Vs. Idea Cellular Ltd. (Vodafone Idea) and three others, whereby Appellant Vodafone Idea Ltd., Telecom Service Provider, had been directed to compensate the Complainant Rs.8,50,000/- (Rupees Eight Lakhs Fifty Thousand only) within one month of this order, failing which compound interest of 12 percent compounded monthly will also be chargeable.
2. In brief, the memo of Appeal contends that Appellant is a Company, registered under the Companies Act, 2013, having its registered Office at Suman Tower, Plot No. 18, Sector 11, Gandhinagar- 382011, Gujarat

with Circle Office at Metropolitan Building, Sy No. 21, F.P. No. 27, Wakdewadi, Old Pune-Mumbai Highway, Shivajinagar, Pune- 411003 and is a renowned Telecom Service Provider, Pan India. Under the Scheme of arrangement between Idea Cellular Limited and Vodafone India Service Private Limited, with effect from 31 August 2018, the name of the Appellant was changed to Vodafone Idea Limited.

3. Daffodils Furnishing and Ceramic Traders, Respondent No.1, Complainant, is a partnership firm, situated at Nashik Maharashtra, having its banks account with RBL Bank Limited, Respondent No.2. Respondent No.3 is the ICICI Bank, which is a beneficiary Bank, having two accounts, from which Respondent No. 4 did unauthorized transaction of receiving amount drawn from the two accounts of Complainant, maintained in Respondent No. 2 Bank, causing loss of Rs. 8,34,000/- (Rupees Eight Lakhs Thirty Four Thousand Only) from the account of Complainant, maintained with Respondent No.2.
4. Respondent No. 1 i.e., Complainant is an individual subscriber of the Appellant since 16 December 2011, by a customer application form **Annexure - G** to memo of Appeal.
5. On 6<sup>th</sup> May 2015, a person claiming himself to be Mr Rajendra Ahuja visited an Idea Outlet in Bhusawal Maharashtra, with a request for

issuance of the duplicate SIM card, because of the loss of original one. Upon receipt of replacement request alongwith the requisite documents, in the prescribed form, the Appellant, in good faith, verified the documents, as per the norms and regulations, issued by Department of Telecommunications.

6. On 7<sup>th</sup> May 2015, Respondent No. 1 i.e., Complainant found that illegal transfer amounting Rs.3,34,000/- and Rs.5,00,000/- were carried out from its account maintained with Respondent No.2, to Respondent No.3, in favour of two unknown people viz. Mr Ramjet Reddy and Ms. Elizabeth Das respectively. A FIR at Police Station Sarkarwada, Nashik Maharashtra, was got lodged instantly with the complaint of hacking of email id of Complainant, resulting such unauthorized transaction.
7. This Complaint before Learned Adjudicating Officer by Complainant Respondent No. 1, U/s 43 read with Section 43A of Information Technology Act, 2000 was got filed, whereas, Information Technology Act is not applicable to the facts of the case regarding issuance of duplicate SIM because of lack of sensitive personal data or information. But the Impugned Order has been passed.

8. The Impugned Order is without jurisdiction, non-reasoned, ex facie illegal and perverse. It was without any enquiry, required under 46 of IT Act. It was against the principle of natural justice. The dispute was a telecom dispute, falling outside the scope and ambit of IT Act. The conduct of Police enquiry was also badly commended by Learned Adjudicatory Authority. Liability of Respondent Nos. 2 and 3 was also not appreciated properly. The Criminal Proceeding could not reach upto logical end till the awarding of Impugned Judgment. The alleged negligence, said to be committed by Appellant was not in consonance with the facts, because Onetime password, regarding the transaction, may also be generated both by a registered mobile number as well as registered email address and this ought to be perceived by Complainant while using net banking. No cause of action was established against the Appellant under Section 43 of the IT Act as well as Rule 8 of Reasonable Security Practices and Procedures and Sensitive Personal Data and Information, Rules 2011.
9. Appellant does not possess handle or deal with sensitive personal data or information. For bringing within the purview of Section 43A of the IT Act, there must be a body corporate, possessing, dealing or handling any sensitive personal data or information in a computer

resource. Whereas, third explanation to Section 43A of IT Act exonerates Appellant.

10. The scope of Reasonable Security Practices and Procedures under Section 43 (A) of the said Act does not include subscriber's verification. The finding of Learned Adjudicating Officer failed to appreciate the facts that the process of issuance of SIM Card was a self-regulated process in respect of which instructions were only issued on August 1, 2016, neither the Telecom Regulatory Authority of India nor DOT issued any binding guidelines and therefore there is no question of any lapse on the part of Appellant. Reserve Bank of India contemplates specific safeguards to be put in place by banks with respect to their net banking system, overall cyber security framework and all of these are geared towards ensuring protection of the consumer and limiting the consumer's liability in the event any fraudulent transaction do take place. The user password, login password etc., which remains within the domain of user, had been misused by it, by its contributory negligence, resulting this unauthorized transaction. No adverse inference can be drawn against the Appellant by mere issuance of duplicate SIM Card that the Appellant have failed to protect its system or any data thereof. Hence,

this Appeal, with prayer of its allowance and setting aside of Impugned Judgment under Appeal as well as Complaint.

11. Reply by Respondent No. 1, Complainant, dated 10 February 2020, by Respondent No.3 - ICICI Bank, dated 11 March 2020, and by Respondent No.2 - RBL Bank Limited got filed having its reiteration of the reply made before Adjudicating Officer and the denial of the contention of the Appellant.
12. Rejoinder over all these three replies, by Appellant, with same contention of memo of Appeal, in its reiteration got filed. Written Submissions were also filed.
13. Heard arguments of Learned Counsels for both side and gone through material place of record.
14. From the very perusal of the Complaint, filed before Adjudicating Officer, replies filed there at, stand taken there at, and the Impugned Judgment, it is apparent that undisputed facts were that, Daffodils Furnishing and Ceramic Traders, Complainant, which was a Corporate user group of Idea Cellular, Telecom Service Provider was having its Cell No. \*\*\*\*\*56777. This was a registered mobile number with RBL Bank, Respondent No.2 for receiving the SMS alerts and OTP's for the online transactions regarding the banking facilities of two of accounts

of Complainant, being maintained with above bank, Respondent No.2. The above Cell number stopped working on 6 May 2015, for which Complainant informed Customer Service Center of Idea Cellular, Telecom Service Provider and upon this Complaint a changed SIM was got issued and activated on May 7, 2015 evening. This discovered that on 7 May 2015, morning the Bank Account of the Complainant, held with Respondent No.2, was illegally operated online by a third party and an amount of Rs. 3,34,000/- and Rs. 5,00,000/- respectively, were illegally transferred from the account of the Complainant, maintained by Respondent No.2, to two beneficiaries having their account in ICICI Bank, Respondent No.3, where from money was instantly withdrawn by them. Upon subsequent contact and complaint with Respondent No.1, Complainant learnt that a new substituted SIM was issued by Respondent No.1 on May 6, 2015 to some unauthorized third party, without intimation or request of the Complainant or verification of documents. This occurrence was instantly complained by Complainant to Respondent No.2, RBL Bank on 7 May 2015, Noon with a request to stop the further illegal transaction. A Police complaint was got lodged in this respect on May 7, 2015 at Police Station Sarkarwada, Nashik, Maharashtra vide FIR No. 3037/ 2015 and this Complaint as a Case No. 33/2015 dated 30 June 2015, was got filed before Adjudicating Officer.

15. All these facts are undisputed.
16. The Adjudicating Officer held that there was no proof with regard to lapse regarding maintaining standard Reasonable Security Practices by Officers of RBL Bank and ICICI Bank with regard to said transactions, whereas, the illegal transfer and thereby syphoning of money in the tune of Rs. 8,34,000/- was held to be because of issuance of duplicate SIM Card by Telecom Service Provider i.e., Appellant without observing Reasonable Security Practices.
17. The arguments raised on the legal points by Learned Senior Counsel of Appellant is with regard to jurisdiction of this Tribunal, the dispute being a Telecom dispute, not within ambit of IT Act, 2000, with no cause of action U/s 43A of this said Act. Appellant, being not in possession, handle or deal with sensitive personal data or information. Issuing of duplicate SIM vis a vis subscribers verification at that time, is not a Reasonable Security Practices and Procedure, required U/s 43A of the IT Act. There is non-imposition or apportionment of liability over respective Banks.
18. All these Legal Issues have been raised by Telecom Service Provider in erstwhile decided Appeal CA No.5/ 2018 Vodafone Idea Ltd., Vs. Shri Sandeep Singhal & Anr., coupled with CA No. 3/2018 Bank of India Vs.

Shri Sandeep and Anr., wherein all these Issues have been heard and finally decided by this Tribunal, against the Telecom Service Provider, holding the responsibility of Telecom Service Providers for its negligence of non-taking and implementing, while maintaining Reasonable Security Practices and Procedures, as mandated by guidelines / Rules of 2011 in case of wrongful loss to the subscriber and under above facts Section 43A of IT Act, can also get attracted against the Telecom Service Provider. The plea that the lapses in verifying the bonafides and authenticity of the person, applying for a duplicate SIM, amount only to violation of CIF Procedure or KYC Procedure, cannot have any diluting effect upon the rider of Section 43A.

19. In Paragraph 44 of the Judgment of above said Appeal, it has specifically been written-

*“On the basis of above discussion, it can be safely concluded that if the facts and materials are found sufficient, in a case of present nature involving unauthorized/ fraudulent transfer of money from a bank with the help of duplicate SIM issued in an apparent negligent manner, the Telecom Service Provider which has*

*issued the duplicate SIM and made it operational by including the same in its computer network, can be held liable to pay damages by way of compensation U/s 43A read with 43 (g) of the Act.”*

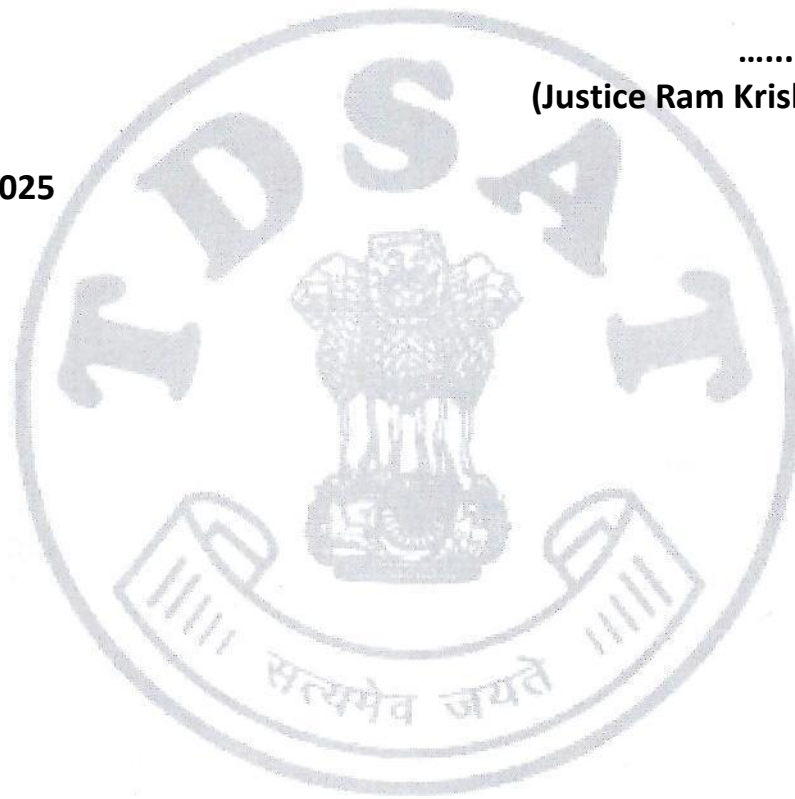
20. This Tribunal itself in CA No. 6/2014, Vodafone India Ltd. Vs. Mr Prashant Mahadeorao Buradkar And Others, read with CA No. 7/2014, State Bank of India Vs. Mr Prashant Mahadeorao Buradkar And Another, vide its Judgment, dated 12.09.2024, has dealt, considered and propounded its Judgment, discussing all above legal arguments made by the same Learned Counsel in those decided Appeals and argued in present Appeal, negating the argument of Learned Senior Counsel for the Telecom Service Provider, present Appellant.
21. Hence, on above settled proposition of law, the legal arguments raised above, are of no help to Appellant.
22. On the facts itself, from the very perusal of Application form, for change and issuance of duplicate SIM Card, it is apparent that the same is with material apparent inconsistencies. Even the person of the department has written that PAN number matches, date of birth incorrect, father's name incorrect, signature mismatch. But duplicate SIM Card had been issued without any communication to Complainant

and owing to this act and omission this fraudulent transaction took place.

23. Hence, to conclude, the Appeal is of no merit and liable to be dismissed with cost.

24. Appeal is being dismissed with cost.

11.09.2025  
/BN/



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(Justice Ram Krishna Gautam)  
Member