TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL

NEW DELHI

Dated 08th September 2026

Broadcasting Petition No. 603 of 2020

Den Enjoy Cable Networks Private Ltd. …Petitioner

Vs.

Maurya Cable Network and Anr. …Respondent(s)

BEFORE:

HON'BLE MR. JUSTICE RAM KRISHNA GAUTAM, MEMBER

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

For Respondent No.2 : Ms. Pratibha Singh, Advocate

JUDGMENT

1. This 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 Petitioner, Den Enjoy Cable Networks Private Limited, against Maurya Cable Network as well as Skynet Digital Services Private Limited, with a prayer for a decree in the tune of Rs. 37,956/- (Rupees Thirty Seven Thousand Nine Hundred Fifty Six Only), as on 31.01.2020, against Respondents, jointly and severely with a further mandate to return 194 Set Top Boxes (STBs), in good and working condition,

issued by Petitioner to Respondent No. 1, or in lieu of that to pay total amount of Rs. 3,87,806/- (Rupees Three Lakhs Eighty Seven Thousand Eight Hundred Six Only) @ Rs. 1999/- per STB, with a further restraint Order for not swapping the STBs of Petitioner with Respondent No. 2, and not to give signals by Respondent No. 2 to Respondent No. 1, otherwise than the regulations made therein.

2. In brief, the Petition contends that the Petitioner, is involved in business of Distribution Platform Operator for carrying on Cable Television Service, registered under the provision of the Cable Television Networks (Regulation) Act, 1995. The Respondent No. 1, is a Local Cable Operator (LCO), who had entered in an agreement with Petitioner, as Interconnect Agreement, for retransmitting the Cable Signal feeds from the addressable system of the Petitioner to ultimate subscribers, dated 19.10.2019 for a term of 19.10.2019 to 30.05.2026. The same agreement is **Annexure - P1** to Petition. The Respondent No. 2, being a competitive service provider, like Petitioner is engaged in the business under Cable Television Act. As per agreement **Annexure - P1,** 194 Set Top Boxes, which were exclusive property of Petitioner, were issued to Respondent No. 1 for installing at subscribers' end, and each of them were costed worth Rs. 1999/-. Hence, Respondent No. 1 was bound to return those 194 Set Top Boxes, in good and working condition, to Petitioner or to make payment of compensation in lieu thereof @ Rs. 1999/- per Set Top Box. Petitioner raised monthly invoices on the Respondent No. 1, for making payment towards above agreement to Petitioner. Few of the invoices are **Annexure – P2** to Petition and Statement

of Accounts, being maintained by Petitioner is **Annexure – P3** to Petition. In spite of repeated requests, the payment was not made by Respondent No. 1.

3. A demand cum cease notice to desist Respondent No. 1, dated 05.03.2020, was got issued and is **Annexure - P4** to Petition. But, without making payment of outstanding subscription dues, and observing the statutory notice of three weeks, Respondent No. 1 used to swap Set Top Boxes with Respondent No. 2. Hence, owing to non-payment of outstanding subscription dues in the tune of Rs. 37,956/- (Rupees Thirty Seven Thousand Nine Hundred Fifty Six Only), as on 31.01.2020 and return of STBs in the tune of 194 by Respondent No. 1, as well as illegal swapping with Respondent No. 2, a cause of action had arisen within the period of limitation as well as territorial jurisdiction of this Tribunal. Hence, this Petition is with above prayer.

4. Respondent No. 1 didn't appear, nor filed any reply. Hence, vide order, dated 30.07.2021, the matter was proceeded exparte against Respondent No. 1. Respondent No. 2 had appeared and taken repeated time for filing its reply, but, had not filed its reply at all. Hence, the right to file reply was got foreclosed vide order, dated 25.10.2021. But, participation in proceeding was there and argument was got advanced by Respondent No. 2.

5. The fact pleaded in Petition was not rebutted by Respondent. There is no reply by Respondent No. 1 as well as Respondent No. 2. Hence, whatever was there, said on oath by Petitioner, is with no controversion by Respondents.

6. The evidence by way of affidavit of Mr. Siddharth Priya Srivastava, was got filed on record. The same is an affidavit, in reiteration of contention of Petition, with no rebuttal at all. The affidavit along with an affidavit required under Section 65B of Indian Evidence Act, for taking Electronic evidence, as evidence on record, has been filed with Annexure of the Statement of Accounts, being maintained by Petitioner, in its usual course of business, as well as invoices issued over Respondent No. 1 for the outstanding subscription dues, along with the documents with regard to issuing of 194 STBs to Respondent No. 1 for deploying at subscribers' end, is on record. These evidences are with no rebuttal.

7. Heard arguments of Learned Counsel for Petitioner, as well as Respondent No. 2 at length, and gone through materials placed on record.

8. The proceeding before this Tribunal is a civil proceeding, as has been given in the TRAI Act, itself. In a civil proceeding, the preponderance of probabilities is the touchstone for making a decision, as against strict burden of proof, required in criminal proceeding.

9. 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.

10. The Petitioner was with burden of proof to prove its case pleaded in all preponderance of probabilities, and the affidavit had been filed in support of contention of pleadings. The same is with no controversion by Respondents. The evidence affidavit as well as affidavit under Section 65B of the Evidence

Act, is in the corroboration and reiteration of contention of Petitioner. Hence, the case against Respondent No. 1 has been fully proved by Petitioner.

11. So, far as Respondent No. 2 is concerned, the Privity of Contract in between Respondent No. 2 and Petitioner, is not there, and this Tribunal in many of previously decided Judgments, had laid down the principle that owing to no Privity of Contract, no liability can be fastened to a competitive service provider. The same had been written in this Petition too, in its order passed on 05.07.2023.

12. The claim against Respondent No. 1 has been fully proved qua outstanding subscription dues against Respondent No. 1. So far cost of STB is concerned, the depreciated value is to be awarded and at present the Set Top Boxes, which were issued in the year 2019, in electronic apparatus had become of no working worth, after lapse of these seven years. Hence, the depreciated value in the tune of Rs. 1699/- per STB, will be equitable and reasonable cost for per STB.

13. Hence, the award of Rs. 37,956/- (Rupees Thirty Seven Thousand Nine Hundred Fifty Six Only) towards outstanding subscription dues and to return total 194 Set Top Boxes in good and working condition, which has been issued to it or in lieu of that, pay the total amount of Rs. 3,29,606/- (Rupees Three Lakhs Twenty Nine Thousand Six Hundred Six Only) @ depreciated value amounting to Rs. 1699/- per STB, will be just and equitable, for being awarded as a decree. Accordingly, this Petition merits to be allowed against Respondent No. 1.

ORDER

The Petition is being decreed as against Respondent No. 1. Maurya Cable Network, is being directed to make deposit within two months from the date of Judgement, towards outstanding subscription fees in the tune of Rs. 37,956/- (Rupees Thirty Seven Thousand Nine Hundred Fifty Six Only) and to return 194 STBs, in good and working condition and in case of failure, deposit Rs. 3,29,606/- (Rupees Three Lakhs Twenty Nine Thousand Six Hundred Six Only) @ depreciated value of Rs. 1699/- per STB, for making payment to Petitioner. Further, the total amount of Rs. 3,67,562/- (Rs. 37,956 + Rs. 3,29,606) (Rupees Three Lakhs Sixty Seven Thousand Five Hundred Sixty Two Only) will bear Simple Interest @ 9% per annum for pendente lite and future interest, till the actual date of realisation of amount. Otherwise, the same will be got realised in execution proceeding.

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

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(Justice Ram Krishna Gautam)
Member

08.09.2026
/BN/