

TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL

NEW DELHI

Dated 2nd January, 2013

Petition No. 837 (C) of 2012

Silverline Entertainment India Pvt. Ltd. ...Petitioner

Vs.

Media Pro Enterprise Pvt. Ltd. ...Respondent

BEFORE:

HON'BLE MR. P.K.RASTOGI, MEMBER

For Petitioner : Mr. Vikram Singh, Advocate
Mr. Bhanu Pant, Advocate

For Respondent : Mr. U. Thakur, Advocate for
Mrs. Prathiba M. Singh, Advocate

ORDER

This petition has been filed by the Petitioner against the action of the Respondent in issuing a public notice dated 30.10.2012 for disconnection of signals of the Petitioner on the ground of non-payment of outstanding subscription fees.

2. According to the Petitioner, although a public notice dated 30.10.2012 under Clause 4.3 of the Regulations was issued but no notice under Clause 4.1 was issued by the Respondent. It is seen from the record that the Petitioner has been served an invoice on 2.10.2012 which shows a total outstanding amount of Rs.64,74,760.89/-.

3. By way of ad-interim order, this Tribunal had ordered that:-

“5. Mr. Vikram Singh, learned counsel appearing for the Petitioner, submits that although 4.3 notice was issued, but 4.1 notice has not been issued as required under the Regulation. However, he is ready to deposit a sum of Rs.25.00 lakhs immediately. He requested for supply of statement of account and its reconciliation. He stated that the Petitioner is ready to pay the amount to the Respondent on reconciliation.

6. The petitioner is directed to pay Rs.25.00 lakhs immediately to the Respondent and reconciliation of account will take place within a period of one week. Till then, the signals of the Petitioner’s network shall not be disconnected.”

4. However, when the matter came up for hearing on 3.12.2012, it was noticed that although the Petitioner paid a sum of Rs.25.00lakhs but the cheques for an amount of Rs.15.00 lakhs were dishonoured.

5. When the matter was heard on 4.12.2012, Mr. Bhatia, learned advocate produced a copy of notice under Clause 4.1 of the Regulations issued on 26th October, 2012. Mr. Bhatia also enclosed a copy of the postal receipt through which the Clause 4.1 notice was despatched. However, the counsel for the Petitioner stated that the said notice has not been received by the Petitioner.

As directed, the Respondent produced a statement of accounts, which shows that the Petitioner has an outstanding amount of Rs.70,42,780.26 as on 30.11.2012.

6. After the hearing was over, Mr. Vikram Singh, learned counsel appearing on behalf of the Petitioner produced a track report of the speed post showing that the notice issued on 26.10.2012 had not been received by the Petitioner. This matter has not been seen by the counsel of the Respondent. This requires examination. However, it is seen that the Petitioner has not produced any record to show that the outstanding amount is not due to the Petitioner. Besides the Petitioner failed to pay an amount of Rs.15.00 lakhs as ordered by this Tribunal on 21.11.2012. The disconnection of the signals of the Petitioner's network was done on 30.11.2012.

7. In view of the aspect that the Petitioner had failed to pay the amount ordered by this Tribunal, I am not inclined to pass an interim order in

favour of the Petitioner at this stage pending examination of the aspect whether the notice under Clause 4.1 of the Regulations has been served on the Petitioner or not.

8. Put up the matter on 3rd January, 2013 for further hearing on the interim matter.

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(P.K. Rastogi)
Member

HKC/