

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

Dated 7th July 2014

Petition No.787(C) of 2012

Media Pro Enterprises India Pvt. Ltd.Petitioner

Versus

World Cable NetworkRespondent

BEFORE:

**HON'BLE MR. JUSTICE AFTAB ALAM, CHAIRPERSON
HON'BLE MR. KULDIP SINGH, MEMBER**

For Petitioner : Mr. T.S. Bhatia, Advocate
Mr. Upender Thakur, Advocate
Mr. Yatin Grover, Advocate

For Respondent : None

ORDER

By Aftab Alam, Chairperson – The petitioner, M/s Media Pro Enterprise India Pvt. Ltd., is a Content Aggregator and a Distributor of TV channels. It has filed this petition against the respondent, World Cable Network, which is a local cable operator for recovery of

Rs.1,70,831.95p as dues of monthly subscription fees as on 7 August 2012. The respondent did not appear despite service of notice and hence, the petition has proceeded against it *ex parte*.

According to the petitioner, the respondent had entered into an agreement with M/s Asianet Communications Ltd. for supply of channels distributed by it. The agreement was executed on 22 March 2011 but it was effected from 28 March 2011 and came to end on 31 December 2011. The subscription fees payable under the agreement was Rs.2700.00 excluding taxes per month (vide Annexure-C to the agreement)

The respondent had also executed an agreement with M/s Star Den Media Services Pvt. Ltd. for supply of its channels. The agreement was executed on 21 March 2011 but it was effected from 1 January 2011 and came to end on 31 December 2011. The monthly subscription fees payable under the agreement was Rs.44,670.78p (excluding taxes) per month (vide Annexure-C to the agreement).

It is further the case of the petitioner that on the basis of agreements executed with them, it took over the sets of channels previously controlled and distributed by Asianet and Star Den from 1 July 2011. Further, the petitioner's predecessors-in-interest also authorized it to collect their respective outstanding dues from all the MSOs, including the respondent.

It is also the case of the petitioner that after stepping into the shoes of its two predecessors in interest, it raised invoices against the respondent for payment of monthly subscription fees as also the dues of the previous two distributors. The respondent, however, failed to make payments against the invoices and, as a result, the outstanding against the respondent accumulated to Rs.1,70,831.96p as on 7 August 2012 and for recovery of that amount this petition is filed.

No reply is filed on behalf of the respondent to controvert the statements and allegations made in the petition.

The petitioner examined as its witness, one Amiya Ranjan Pati, working as Deputy General Manager in the company. The witness identified the subscription agreement between the respondent and Asianet dated 22 March 2011 which is marked as Exhibit PW-1/1. He also identified the respondent's subscription agreement with Star Den dated 21 March 2011 which is marked as Exhibit PW-1/2. He also identified the six invoices raised by the present petitioner against the respondent, which are marked as Exhibit PW-1/3 (Colly). He lastly identified copies of the ledger accounts showing the outstanding payable by the respondent which are marked as Exhibit PW-1/4.

There are altogether six invoices. The first one, dated 12 August 2011 is for the month of July 2011. The invoiced amount is Rs.49,271.87p, out of which Rs.44,670.78p is the subscription charges

and the rest are taxes; any previous outstanding is shown as nil. In the next invoice, the invoiced amount of the last invoice is shown as the previous outstanding to which the subscription charges for the next month are added to come to the invoiced amount. And the same pattern continues till the end. In the invoices for the months of July, August and September 2011, the subscription charges are raised at the rate of Rs.44,670.78p to which taxes are added. It is thus clear that for the aforesaid three months the petitioner has raised invoices with regard to the respondent's agreement with Star Den. For these three months, no subscription charges are demanded with regard to the respondent's agreement with Asianet. The position is then reversed in the next three invoices. The first in the latter three invoices is dated 19 January 2012 and it is for the months of October, November and December 2011 and January 2012. But for these four months, the subscription charges are demanded at the rate of Rs.2700.00. It is thus clear that after September 2011, the petitioner did not raise any invoice in regard to the Star Den channels. The next two invoices for the months February and March 2012 again show subscription charges at the rate of Rs.2700.00. The ledger account reflects the same position as shown in the invoices.

So far as the first three invoices for the months of July, August and September 2011 are concerned, those are for Star Den channels and there may not be any difficulty in regard to those invoices. However, the next

three invoices, for Asianet channels cover the period from 1 October 2011 to 31 March 2012. As seen above, the agreement with Asianet came to end on 31 December 2011. There is no averment that even though the respondent's agreement with the petitioner's predecessors-in-interest with the Asianet had come to end, the petitioner nevertheless continued to supply those channels to the respondent and the channels supplied by the petitioner were used by the respondent to its benefit by retransmitting them to its subscribers. In those circumstances, the petitioner can only be entitled to the subscription fee for the Asianet channels at the rate of Rs.2700.00 per month from October to December 2011 and not for the next three months as claimed by it.

In other words, the petitioner is entitled to receive from the respondent the sum of Rs.1,37,709.68p plus Rs.8100.00 (being the subscription for Asianet channel for the months of October to December 2011) plus taxes on the aforesaid sum of Rs.8100. The petitioner is directed to calculate and submit to the office within two weeks from today the amount of taxes on Rs.8100.00 in order to facilitate the preparation of the decree. This amount would carry interest @ 24% (as provided under the agreement) from 1 January 2012 to 31 October 2012, the date of filing the petition before this Tribunal. The decretal amount so determined shall carry further interest @ 9% per annum from the date

of filing of the petition till realization of the amount. There will be no order as to costs.

.....
(Aftab Alam)
Chairperson

.....
(Kuldip Singh)
Member

/sks/