

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

Dated 27th November, 2014

Petition No. 86(C) of 2014

MSM Discovery Pvt. Ltd

.....Petitioner

Versus

Raj Cable Network

.....Respondent

BEFORE:

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

For Petitioner : Mr. Azmat Amanullah, Advocate

For Respondent : None

ORDER

This is a petition for recovery of Rs. 1,08,098/- as dues of monthly subscription charges.

MSM Discovery Pvt. Ltd, the petitioner, is a broadcaster, engaged in the business of distribution of "The One Alliance" Channels, namely, SET, MAX, SAB, PIX, MIX, SIX, Aath, Animal Planet, AXN, Animax, Discovery Turbo, Discovery Kids, Aaj Tak, Headlines Today, TEZ, Neo Sports, Neo Prime, Zoom, Times Now, ET Now, Movies Now, etc. The respondent is a Multi System Operator, operating a cable network in the area of Hansi, Haryana. It used to be an affiliate of

the petitioner and retransmitted the signals supplied by the petitioner to its associated Local Cable Operators (LCOs) and in some cases also to individual subscribers.

The respondent did not appear despite service of repeated notices and hence, the petition was proceeded *ex parte*.

According to the petitioner's case the parties executed a Subscription Agreement on 14.03.2013 under which the respondent was authorized to retransmit the signals of the petitioner's channels, for the period between 01.01.2013 and 31.12.2013 in the areas defined in the subscription agreement on a monthly subscription fee of Rs. 36,669/- (Rupees Thirty Six Thousand Six Hundred and Sixty Nine only), exclusive of taxes.

It is alleged by the petitioner that it supplied its signals to the respondent and raised monthly invoices but the respondent defaulted in paying the monthly subscription fees. Despite receiving numerous reminders and requests from the petitioner, the respondent did not clear its outstanding dues. The petitioner served a notice dated 01.11.2013 under clause 4.1 of the Interconnect Regulations but the respondent did not even respond to the notice. As the respondent did not pay even after the notice issued under clause 4.1, the petitioner issued a notice dated 20.11.2013 under clause 4.3 of the Interconnection Regulation and published public notices of disconnection against the respondent. The petitioner stopped the supply of its signals to the Respondent on 13.12.2013. The outstanding balance of the

respondent to the petitioner on the date of deactivation was Rs. 1,08,098/-. The petitioner served a legal demand notice 29.01.2014.

The petitioner claims the sum of Rs.1,08,098/- as its dues along with interest @ 18% by the respondent.

In this petition, copies of the Subscription Agreement, the invoices raised by the petitioner, the notices under clauses 4.1 and 4.3 along with the postal receipts, the statement of account, and the legal demand notice are enclosed as annexures.

In support of its claims, the petitioner examined one Mr. Kashif Raza as the witness in the case. He is the Area Manager in the Petitioner Company. He duly proved the documents produced by the petitioner in support of its claims against the respondent.

Some extracts from the witness's deposition in the case [Petition no. 86 (C) of 2014] are as under:

“2. That I say that the present petition has been filed by the petitioner seeking recovery of a sum of Rs. 1,08,098/- along with interest thereon from the Respondent as arrears of subscription fees. The respondent has defaulted in paying the said subscription fees in terms of the affiliation agreement duly entered into between the parties.

3. XXXXXXXXXXXXXXX

4. I say that the Petitioner and Respondent duly entered into an Affiliation Agreement for the year 2013, vide which the Respondent was authorized to retransmit signals of the Petitioner's channels within the Municipal limits of Hansi only, in Haryana at a monthly subscription fees of Rs. 36,669/- (Rupees Thirty Six Thousand Six Hundred and sixty Nine Only), exclusive of taxes, for the period from 01.01.2013 to 31.12.2013. True copy of the Affiliation agreement executed between the parties for the year

2013 is exhibited herewith and marked as **Exhibit P-1**(at pages 15 to 31of the paper book).

5. I say that the Respondent continuously defaulted in paying the due subscription fees despite receiving numerous reminders and requests from the petitioner and failed to make the requisite payments of the subscription fees to the Petitioner. Copies of the invoices raised by the petitioner are exhibited herewith and marked as **Exhibit P-2** (at pages 32 to 40 of the paper book).

6. I say that due to the non-payment of the subscription fees by the Respondent, the Petitioner had to issue a notice dated 01.11.2013 under the clause 4.1 of the Interconnection Regulations, 2004 (as amended) upon the respondent for non-payment of dues amounting to the (then) sum of Rs. 92,148/-.A copy of the 4.1 notice dated 01.11.2013 along with its postal receipt is exhibited herewith and marked as **Exhibit P-3** (at pages 41 and 42 of the paper book).

7. I say that the Respondent failed to respond to the said notice and failed to make the requisite payment due to which the Petitioner had to issue public notices on 20.11.2013 under clause 4.3 of the Interconnection Regulations, 2004 in two newspapers, i.e., Pioneer, and Haribhoomi (various editions), which are in circulation in the territories where the Respondent was authorized to transmit the Petitioner's signals. Copies of the said public notices along with a translated copy of the notices in Hindi are exhibited herewith and marked as **Exhibit P-4** (COLLY) (at pages 43 to 46 of the paper book).

8. I say that the Petitioner finally deactivated its signals to the Respondent on 13.12.2013 as the Respondent failed to make the requisite payment.

9. I say that the outstanding balance of the Respondent to the Petitioner as on 13.12.2013 is Rs.1,08,098/- (Rupees One Lakh Eight Thousand and Ninety Eight Only). The respondent has failed to disburse the subscription fees which is an admitted debt and has been duly intimated to and acknowledged by the Respondent. A copy of the system generated statement of account maintained by the petitioner qua the respondent is exhibited herewith and marked as **Exhibit P-5** (at page 47 of the paper book).

10. I say that since the Respondent failed to make the requisite payment, the Petitioner, through its advocate, sent a legal notice dated 29.01.2014 to the Respondent which was duly received by the Respondent. A copy of the legal notice dated 29.01.14 along with its postal receipt is exhibited herein and marked as **Exhibit P-6** (at pages 48 to 50 of the paper book).”

The deposition of the witness remains unchallenged and there is no reason not to accept its veracity.

In light of the discussions made above, we accept the petitioner's claim and allow the petition *ex-parte*. The office is directed to draw up a decree against the respondent for the amount claimed by the petitioner. The decretal amount will also carry interest @ 9% per annum from date of filing of the petition till the date of actual payment. Since the case has proceeded *ex parte*, there will be no order as to costs.

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(Aftab Alam)
Chairperson

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(Kuldip Singh)
Member