

TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL  
NEW DELHI

Dated 31<sup>st</sup> July, 2017

**Broadcasting Petition No.21 of 2015**

IndiaCast UTV Media Distribution  
Pvt. Ltd., Mumbai

...Petitioner

Vs.

Dattatray Cable Networks, Maharashtra &Anr.  
...Respondents

**BEFORE:**

**HON'BLE MR. JUSTICE SHIVA KIRTI SINGH, CHAIRPERSON**

**HON'BLE MR. B.B. SRIVASTAVA, MEMBER**

**HON'BLE MR. A.K. BHARGAVA, MEMBER**

For Petitioner

: Mr. Kunal Tandon, Advocate  
Mr. Shashank Sekhar, Advocate

For Respondents

: None

**ORDER**

**By A. K. Bhargava, Member** - The Petitioner is a broadcaster who entered into an agreement with the Respondent No. 1 who is a Multi System Operator (MSO). The respondent no. 1 re-transmitted signals of TV channels supplied by the petitioner but allegedly did not clear the dues. Aggrieved by this, the petitioner has filed this petition on 23-1-2015 against the Respondent No. 1 and Respondent No. 2, praying for the following reliefs:

- (a) pass a decree to the tune of Rs. 4,04,490/- in favour of the petitioner and against the respondents.
- (b) interest @18% per annum on the sum due, till the realization of the amounts in favour of the petitioner and against the respondents, be awarded.
- (c) pass an order directing the respondents to pay costs to the petitioner.

Due to the non-appearance of the Respondent No. 1 (hereinafter referred to as respondent), the matter was allowed to proceed *ex-parte*.

Petitioner had signed a subscription agreement with the respondent, valid for the period 1-4-2012 to 31-3-2013, for an annual subscription fee of Rs. 3,60,000/- exclusive of taxes. Petitioner supplied the signals up to 19-12-2014, although the agreement had expired on 31-3-2014. As per the demand notice dated 12-12-2014, the petitioner has claimed an outstanding amount of Rs. 4,04,496/- for the period 1-4-2012 till 17-7-2014. Claim of the petitioner has been filed within the limitation period.

In view of the legal position settled by orders of this Tribunal that no claim can be entertained or allowed for a period which is not covered by a written agreement, the claim of the petitioner in this case has to be limited to the period written agreement was subsisting i.e. 1-4-2012 to 31-3-2013. We note that the petitioner has attached a statement of account (Annexure P-4 of the petition) for the claimed account of Rs. 4,40,496/-. As per the entries in this, an invoice was raised for the period 1-3-2013 to 31-3-2013 along with debit entry for the period 1-4-

2012 to 28-2-2013 on 31-3-2013. The net balance is shown as Rs 4,04,496/- which is for the period 1-4-2012 to 31-3-2013.

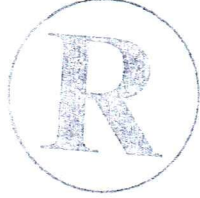
The statement of account is supported by the invoice where the claimed amount is as per the agreement. The amount claimed is also for the period under written agreement. In view of this, we accept the claim of the petitioner for the sum of Rs. 4,04,496/-. The petitioner has also claimed interest @ 18% per annum for the entire period of delay. In our view, it would be reasonable and in the interest of justice to allow the claim of interest only @ 8% per annum on the sum allowed till the date of realization.

It is to be noted that the petitioner had also impleaded M/s Hotel Grand Hyatt, Mumbai as respondent No. 2 since they were receiving channels of the petitioner through Respondent No. 2 as 'commercial subscriber'. It is noted here that the respondent no. 2 has no privity of contract between him and the petitioner. The said subscription agreement which the petitioner so relies upon is between the petitioner and respondent no. 1 only. As a commercial subscriber, Respondent 2 had an arrangement with the respondent no. 1 for supply of signals and was responsible for making payment to the respondent no. 1 for the services rendered. We thus find no liability of Respondent No. 2 towards the petitioner in this case.

Prayers in the BP No. 21(C) /2015 are allowed only to the extent mentioned above and the petition is disposed of. Let a decree be drawn up accordingly.

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(S.K. Singh, J)  
Chairperson

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**(B.B. Srivastava)**  
**Member**



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**(A.K. Bhargava)**  
**Member**