

TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL
NEW DELHI

Dated 31st October, 2017

Broadcasting Petition No. 362 of 2015

Discovery Communications India

...Petitioner

Vs.

Sagar E Technologies Private Limited

... Respondent

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

: Ms. Payal Kakra, Advocate
Ms. Vidya Prabhakaran Khurana, Advocate

For Respondent

: None

*Decree to be
drawn*

ORDER

By A. K. Bhargava, Member - The Petitioner is a Broadcaster while the Respondent is a Multi System Perator (MSO). Both the parties entered into an agreement for DAS area, for the period 01-04-2014 to 31-03-2015. In terms of this agreement, the respondent was to pay to the petitioner a monthly subscription fee of Rs. 2,17,500/- (exclusive of taxes) for re-transmission of the petitioner's channels. The petitioner submits that he regularly supplied signals and raised due invoices on the respondent seeking payment of the subscription amount as per the agreement. However, the respondent persistently defaulted in making payment as per the due invoices. In order to protect its commercial interest, the petitioner deactivated signals of its channels to the respondent's network on 24-12-2014. Further, the petitioner issued legal notices on 29-04-2015 and 26-05-2015 asking the respondent to clear

the subscription dues but to no avail. Subsequently, the petitioner has filed this petition on 20-07-2015 for the following reliefs :

- (a) Adjudicate the present petition and pass a decree for the sum of Rs. 18,32,817/- (Rupees Eighteen Lac Thirty Two Thousand Eight Hundred Seventeen only), in favor of the Petitioner and against the respondent along with the pendent lite and future interest @18% per annum from the date of the institution of the petition till the realization of the amount against the respondent.*
- (b) Direct the respondents to return the Integrated Decoders and Viewing cards of the channels to the petitioner;*
- (c) Award the cost of the petition to the petitioner and against the respondent.*

In view of non-appearance of the parties, the matter has proceeded ex-parte. At the outset, we also observe that the claim has been filed within the limitation period. The claim by the petitioner is also for the period when the written agreement was subsisting.

In support of its claim of recovery, the petitioner has placed a statement of account (Annexure – P3) which shows total outstanding of Rs. 18,32,817 for the period April-14 to Dec-2014. The statement of account is supported by proper invoices that have been raised in accordance with the written agreement and also reflects the on account payments made by the respondent. The invoices have been annexed with the petition . These invoices have not been challenged despite a notice issued on 29-04-2015 and 26-05-2015 for clearing the outstanding. Proof of delivery of these notices has also been annexed. As per the petitioner, the signals were deactivated on 24-12-2014 post due compliance with the regulations. Hence, the claim is only upto 24-12-2014 during the subsistence of the agreement. From the statement of account, we notice that a due credit entry has been passed in December 2014 to restrict the claim upto 24-12-2014 only. We thus find that the amounts shown in invoices are in accordance with the written agreement.

In view of the subscription agreement and supporting invoices along with the statement of account, we accept the claim of the petitioner for the recovery of Rs. 18,32,817/- (Rupees Eighteen Lac Thirty Two Thousand Eight Hundred and Seventeen only) towards subscription charges. 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.

Petition 362(C) of 2015 is allowed in above terms. A decree may be drawn accordingly.

(S.K.Singh, J)
Chairperson

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(B.B. Srivastava)
Member

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(A.K.Bhargava)
Member

