

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

Dated 22nd January, 2019

**Broadcasting Petition No.250 of 2015
(With M.A. Nos.486 of 2015 & 375 of 2016)**

Sun Distribution Services Pvt. Ltd. ... Petitioner
Vs.
Mplex Networks Pvt. Ltd.(Balehonour) ... Respondent

**Broadcasting Petition No.251 of 2015
(With M.A. Nos.487 of 2015 & 376 of 2016)**

Sun Distribution Services Pvt. Ltd. ... Petitioner
Vs.
Mplex Networks Pvt. Ltd.(N. R. Pura) ... Respondent

**Broadcasting Petition No.253 of 2015
(With M.A. Nos.489 of 2015 & 378 of 2016)**

Sun Distribution Services Pvt. Ltd. ... Petitioner
Vs.
Mplex Networks Pvt. Ltd.(Shaniversanthe) ... Respondent

**Broadcasting Petition No.254 of 2015
(With M.A. Nos.490 of 2015 & 379 of 2016)**

Sun Distribution Services Pvt. Ltd. ... Petitioner
Vs.
Mplex Networks Pvt. Ltd.(Somwarpet) ... Respondent

Broadcasting Petition No.255 of 2015
(With M.A. Nos.491 of 2015 & 380 of 2016)

Sun Distribution Services Pvt. Ltd. ... Petitioner
 Vs.
 Mplex Networks Pvt. Ltd.(Mudegere) ... Respondent

Broadcasting Petition No.256 of 2015
(With M.A. Nos.492 of 2015 & 381 of 2016)

Sun Distribution Services Pvt. Ltd. ... Petitioner
 Vs.
 Mplex Networks Pvt. Ltd.(Channagari) ... Respondent

Broadcasting Petition No.257 of 2015
(With M.A. Nos.493 of 2015 & 382 of 2016)

Sun Distribution Services Pvt. Ltd. ... Petitioner
 Vs.
 Mplex Networks Pvt. Ltd. (Chickmagalur) ... Respondent

BEFORE:

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH, CHAIRPERSON
HON'BLE MR. A.K. BHARGAVA, MEMBER

For Petitioner : Mr. Karan Kapoor, Advocate
 Ms. Atmaja Tripathy, Advocate

For Respondent : None

ORDER(Oral)

By S.K. Singh, Chairperson – These matters have been heard together because the petitioner's claim for recovery in all these petitions is based upon

similar evidence and documents with very minor changes in respect of dates upto which supply of signals was made in different areas. The respondent in all these petitions is common and its defence is also common. These matters along with B.P.No.249 of 2015 were fixed for *ex parte* hearing because the respondent after filing its reply stopped appearing and did not take any interest in spite of sufficient notice. B.P.No.249 of 2015 was also heard *ex parte* and in that case judgment was delivered on 08.01.2019. In almost similar factual background that petition was allowed by directing for a decree for the amount claimed along with interest at the rate of 9%. In these petitions also due to non-appearance of the respondent there could be no cross examination of petitioner's witness whose evidence affidavit is on record.

2. In view of no cross examination and in absence of any evidence on behalf of respondent the claim of the petitioner in these petitions supported by evidence filed on affidavit has to be treated on a footing that by abandoning the contest the respondent has accepted the claims. However, we have carefully examined the reply of the respondent which is accompanied by only one letter dated 10.11.2014. We have also examined the documents filed by the petitioner which include various agreements, the statement of account as well as copies of invoices. The documents of the petitioner support the pleadings and the claim of petitioner. On the other hand the letter dated 10.11.2014 has been strongly challenged in the rejoinder as a document created as an afterthought with a view

to make out a false defence. It is the case of the petitioner that the aforesaid letter was never received by the petitioner and there is no proof of its despatch also.

3. Petitioner has brought on record by way of evidence several documents which include letters as well as notices demanding the outstanding amounts claimed through these petitions. The respondent has chosen not to bring on record any reply or response which the respondent would have surely sent if it had any quarrel with the contents of the letters or the notices. There is absolutely no material or evidence from the side of the respondent to show any contest either to the letters and notices mentioned above or to the invoices and statement of account annexed with each of these petitions.

4. On behalf of the petitioner learned counsel took us through different letters and notices in support of pleadings that although the agreements were valid till 31.03.2015 covering different territories which were subject matter of different agreements, the date of disconnection or stoppage of signals varies from case to case. It has been shown that in B.P.No.250 of 2015 the agreement was terminated on the request of the respondent on 12.03.2015 and subscription dues have been claimed only till that period which would be evident from careful perusal of statement of account. In B.P.No.251 of 2015 the

disconnection of signals was effected on 28.01.2015 which is supported by letter contained in Annexure P-3. Subscription dues claimed are only till date of disconnection. In B.P.No.253 of 2015 disconnection was effected on 17.03.2015 which is supported by petitioner's letter in Annexure P-4. The demand is only till that date. In B.P.No.254 of 2015 disconnection was on 17.03.2015 which is supported by petitioner's letter in Annexure P-4. The amount claimed is only till the date of disconnection. In B.P.No.255 of 2015 supply of signals was disconnected on 27.01.2015 as appears from petitioner's letter in Annexure P-3. The demand is only for that period. In B.P. No.256 of 2015 disconnection was effected on 23.01.2015 which is apparent from petitioner's letter in Annexure P-3. The claim is only till that date. Lastly, in B.P. No.257 of 2015 it has been shown that there was no disconnection earlier to the expiry of the agreement by efflux of time on 31.03.2015. The claim is till that date.

5. As indicated earlier in these petitions, the petitioner has prayed for a decree for various amounts which are indicated herein below in a tabular form:

S.No.	Description	Amount claimed
1.	Petition No.250 of 2015	Rs.2,04,670/-
2.	Petition No.251 of 2015	Rs.2,90,521/-
3.	Petition No.253 of 2015	Rs.5,97,593/-
4.	Petition No.254 of 2015	Rs.10,75,187/-
5.	Petition No.255 of 2015	Rs.1,91,906/-
6.	Petition No.256 of 2015	Rs.8,37,480/-
7.	Petition No.257 of 2015	Rs.13,42,473/-

6. The petitioner has sought a decree in its favour and against the respondent along with interest @ 18% per annum. The extract of statement of account for the relevant period has been annexed with each of the petitions to show that only the proper amount, after reversal in some of the cases in the light of early disconnection, as has been claimed by the petitioner. The details of agreement between the parties show that the period for which subscription dues have been claimed is covered by the agreement as well as invoices and the running account between the parties reflects the debits, credits and the outstanding balance claimed in each of the petitions. The letter of the respondent, dated 10.11.2014 has not been proved as an evidence and is found to be unreliable.

7. On a careful examination of pleadings of the parties and the documents and evidence brought on record by the petitioner and also the sole letter filed along with the reply of the respondent, we find that the dues claimed in these petitions are as per law and not barred by limitation. The period of claim as noted earlier is covered by valid agreements and the statement of account also appears to be maintained in usual course of business and is found to be reliable.

8. In view of aforesaid findings, the petitioner is held entitled to the amounts claimed in these petitions as noted earlier in **Para 5** of this order. Accordingly

we allow the petitions by holding that the petitioner is entitled to a decree for the amounts noted above in each of these petitions.

9. Although the petitioner has claimed interest @ 18% per annum but considering our consistent past orders in similar matters we allow interest only at the rate of 9% per annum. These petitions were filed on 27.05.2015. Hence we hold that the petitioner will be entitled to interest at the rate of 9% per annum with effect from 01.06.2015 till the decretal amount is realised along with the interest. If the respondent fails to pay the decretal amount within two months from today the petitioner will be entitled to recover the amount through the process of execution. The office is directed to prepare a decree accordingly. A copy of this judgment be kept in the file of each of these petitions. No cost is awarded as the respondent has abandoned to contest the claim.

10. These petitions are disposed of in the aforesaid terms.

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(S.K. Singh, J)
Chairperson

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(A.K. Bhargava)
Member