

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

**Dated 4<sup>th</sup> November, 2019**

**Broadcasting Petition No. 658 of 2016**

Sony Pictures Networks India Pvt. Ltd.

... Petitioner

Versus

Fresh Cable New Delhi

... Respondent

**BEFORE:**

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

For Petitioner : Mr. Shashank Shekhar , Advocate  
Mr. Amandeep Singh, Advocate

For Respondents : None

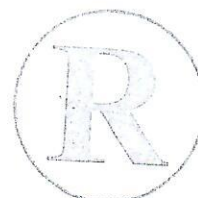
**JUDGEMENT**

Heard learned counsel for the petitioner. Nobody appears for the respondent. The records disclose that the respondent was served with notice but has chosen not to appear at any point of time. No reply or evidence has been filed on behalf of respondent. Order for ex-parte hearing was passed on 16.1.2017. Accordingly the matter has been heard ex-parte.



2. The present petition is under Section 14 A(1) of the Telecom Regulatory Authority of India Act 1997 (TRAI Act). The petitioner has made the necessary averments to show that it is competent to maintain this petition to claim certain amount of money from the respondent, for and on behalf of broadcasters such as Sony Picture Networks India Pvt. Ltd. and TV Today Networks Ltd.

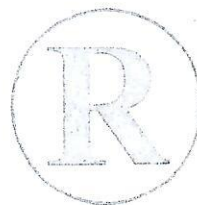
3. The petitioner has pleaded that the respondent is a distribution platform operator (MSO), retransmitting signals of TV channels supplied by the petitioner for particular area/territory only, in terms of various affiliation agreements executed from time to time. Petitioner's predecessor, MSM Media Distribution Pvt. Ltd. was earlier known as MSM Discovery Pvt. Ltd. and in that capacity, as an agent of various broadcasters including Sony & TTV, it had executed an affiliation agreement with the respondent for the period 1.1.2014 till 31.12.2014. The monthly subscription fee under that agreement which is at Annexure P-1(Colly) was Rs. 34,015.00 only. It has been explained that due to coming into force of The Content Aggregator regulation dated 10.2.2014, the parties had to bring that agreement to a pre-mature closure by March 2014. With the help of invoice and statement of account, it has been shown that an amount of Rs. 42,826.00 remained outstanding against the respondent by the end of March 2014, that statement of account is Annexure P-6 (Colly).



4. The next set of agreements covering Sony channels and TVT channels were executed between the parties for the period 1.4.2014 to 31.12.2014. The monthly subscription fee for Sony channels was Rs. 28,287.00 only and Rs. 341.00 only for the TVT channels. On the expiry of the above agreement, the parties entered into another agreement for the period 1.1.2015 to 31.12.2015 under which the monthly subscription fee for Sony Channels was Rs. 28,055.00 only and Rs. 573.00 only for the TVT channels. The invoices for the various periods have been brought on record as Annexure P-2 (Colly) and Annexure P-4 (Colly). As noted earlier, the copy of the statement of account covering the entire period for which different agreements were executed, as noted earlier is on record as P-6 (Colly). The running account, as is apparent from the statement of account, appears to have been maintained during normal course of business and reflects the invoiced amount as debit and the payments as credit. For Sony Channels, the statement of account discloses an outstanding dues of Rs. 4,72,878.00 and for TVT channels Rs. 9645.00. This outstanding is on account of invoices raised till the date of disconnection which is shown to be 27.4.2016. The last invoice read with a credit note discloses that the petitioner has charged on pro-rata basis only till 26.4.2016.

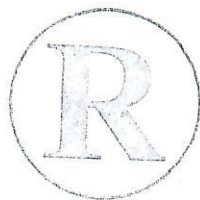


5. The petitioner has pleaded in paragraph 10 that after the expiry of the term of agreement, the respondent was requested for renewal of the agreement. As per averments, the matter of renewal remained pending because the respondent kept on assuring the petitioner that renewal would be made soon but the signals be continued in the meanwhile. On such assurance, the signals were continued but finally the respondent avoided to execute the fresh agreements. In such circumstances, petitioner claims to have served the respondent with disconnection notices which are as Annexure P-5 (Colly). It was indicated that huge amount of money had fallen as dues of subscription fees for the period upto 29.2.2016 and if the payments are not made, the supply of signals may be discontinued after the notice period. It appears that pursuant to such notice dated 31.3.2016, ultimately supply of signals was disconnected on 27.4.2016. On a careful perusal of the copies of agreements, invoices and the statements of account available on record, it is found that the claim is on the basis of a running account and is not barred by limitation. It is further found that claim upto the period 31.12.2015 is fully covered by the duly executed agreements but there is no agreement to support the claim of money by way of subscription fees for the period from January 1, 2016 till 26.4.2016.



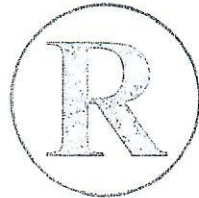
6. Learned counsel for the petitioner has fairly submitted that in view of provisions in the relevant regulations and the law laid down by this Tribunal, subscription fees even in absence of an agreement between the parties can be claimed and allowed only for the period of three subsequent months after the expiry of the agreement provided it is shown that parties were under discussion and extension or fresh agreement was being contemplated. From the contents of paragraph 10, he has successfully shown that in this case, supply of signals was made beyond the agreement period on the assurance of the respondent that he will execute fresh agreements. In view of such materials, the petitioner's claims can at best be allowed only for dues outstanding upto 31.3.2016.

7. Since the respondent has failed to contest the claim of the petitioner and has not filed any reply or evidence, there is no reason not to allow the petitioner's claim for dues of subscription fees upto 31.3.2016. The claim is allowed to that extent. Learned counsel for the petitioner has successfully shown from the statement of account that on restricting the claim of dues of subscription fees till 31.3.2016, the outstanding amount will come down to Rs. 4,93,532.00 in place of Rs. 5,25,349.00 as claimed through the petition. The calculations appears to be correct. Hence, a decree in favour of the petitioner and against the respondent is allowed for Rs. 4,93,532.00 only. Petitioner has also claimed interest @ 18% p.a.



from the date of invoice till date of payment. However, following large number of judgements and orders on the issue of interest passed by this Tribunal recently, the claim for interest is allowed but only @ 9% p.a. from the month of November 2016 when this petition was filed, till the date of realization. The respondent is directed to pay the decretal amount including the interest within six weeks from today failing which the petitioner will be entitled to recover the amount through an execution proceeding. The office is directed to prepare a decree on the basis of this judgement and order at an early date, preferably within six weeks.

8. The petition is allowed in the aforesaid terms, but without costs.



(S. K. Singh, J)  
Chairperson

/SC/