

(17)

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

Dated 22nd October, 2019

Broadcasting Petition No.293 of 2016

Sony Pictures Network India Pvt. Ltd.

... Petitioner

Vs.

Super Channels India Pvt.Ltd

... Respondent

BEFORE :

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH, CHAIRPERSON

Appellant

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

Respondent

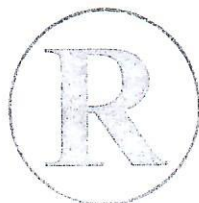
: None

JUDGMENT

Heard learned counsel for the petitioner. Nobody appears for the respondent.

2. The records show that since the very beginning, inspite of service of notice, the respondent has chosen not to appear and has never filed any reply to contest the claim of the petitioner. There is already an order for ex-parte hearing of the petition.

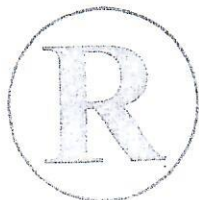
3. The petitioner is a private limited company. At the relevant time its predecessor, MSM Media Distribution Pvt. Ltd.(the original petitioner), was an authorized agent of Sony Pictures Network India Pvt. Ltd.(earlier known as Multi



Screen Media Pvt. Ltd., now "SPN") and also TV Today Network Ltd. "TVT" to distribute their respective channels.

4. Petitioner has claimed that it has been validly assigned the right to recover the dues of the broadcaster SPN and TVT even for the period prior to 1.4.2015 and as such it has right to file the present petition for recovering the subscription fees and the outstanding dues on that account even for period prior to 1.4.2015. In the present case the term of the first agreement for SPN channels has been shown to be from 1.4.2014 to 31.12.2014, followed by the second agreement for the period 1.1.2015 to 31.12.2015. It appears that the first agreement was signed belatedly sometime in August 2014, Affiliation agreements have been annexed P-1 (Colly). As per the first agreement, the monthly subscription fees for SPN channels was Rs. 1,15,842.00 and for TVT channels, Rs.2385.00. As per the second agreement, the monthly subscription fee for SPN channels came to be Rs. 1,37,485.00 and for TVT channels it was Rs. 2,806.00. Taxes had to be paid additionally.

5. It has been disclosed in the petition that DAS phase – III was introduced in the concerned area where the respondent was operating, after 31.12.2015 and therefore on expiry of the term of the agreement the supply of signals as per old regime was discontinued. It is the case of the petitioner which is also supported



by the statement of account available as annexure P-4 (colly) that because of default in payments the amount due became Rs. 3,26,342.00 as claimed by the petitioner. It is covered by the term of the agreements and the demand is in accordance with the rates disclosed in the agreements. The payments made by the respondent have also been reflected in the statement of account and given due credit. The petitioner has claimed the outstanding dues alongwith interest at the rate of 18% per annum till the dues are realized from the respondent.

6. Learned counsel for the petitioner has explained that invoices for larger part of the first agreement period could not be raised because the agreement was actually signed sometime in August 2014 and therefore the amount as per agreement was shown as payable on the basis of debit notes reflected in the accounts on 30.1.2015 to 31.3.2015. During the first agreement period invoice on record is only for about 10 days from 21.12.2014 to 31.12.2014. It has been shown that a substantial amount of more than 8 lakhs has been also credited in favour of the respondent on 30.3.2015 by way of transfer of balance amount from another account. In the TVT account, the amount credited by way of transfer is Rs. 12,155.00. Learned counsel for the petitioner has explained that these transactions were accepted by the parties and the respondent continued to make payments thereafter which are duly reflected in the statement of account,

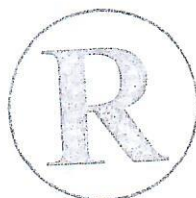


Annexure P-4 (Colly). The petitioner has annexed with the petition, copies of invoices annexed as P-2(Colly). It has been shown that for the second agreement period during which regular payments have been made, the invoices were issued every month regularly and there is no dispute raised in respect of invoices.

7. It is the case of the petitioner that the respondent avoided to clear the outstanding amounts resulting into an arrear of Rs. 3,26,342.00 upto the disconnection date i.e. 31.12.2015. A copy of the letter dated 8.12.2015 has been annexed as Annexure P-3 which shows that petitioner had made a demand for the outstanding dues including that for the month of December 2015. According to petitioner, only a part of the total outstanding dues was cleared on 14.1.2016 and that payment has been duly credited in the statement of accounts.

8. It has been shown that the final debit balance against the respondent supports the claim made in this petition.

9. The present petition was filed on 5.5.2016 and is clearly within the period of limitation. Having considered the claims of the petitioner and the supporting documents available on records as Annexures, there appears no good reason not to accept the case of the petitioner when the respondent has chosen, even after notice, not to appear and contest the claim.



10. Accordingly, the petition is allowed and, as prayed, a decree for Rs. 3,26,342/- (Rupees Three lakhs twenty six thousand three hundred forty two only) in favour of the petitioner and against the respondent is passed alongwith interest, but only at the rate of 8% per annum which has been allowed in large number of similar cases. The interest shall be payable on the aforesaid rate from May 2016 till the date of realization.

11. Since the respondent has chosen not to contest the claim, there shall be no order as to cost. The respondent is directed to pay the decretal amount as per this order within six weeks failing which the petitioner will be entitled to realize the entire amount through execution application.

12. The Registry is directed to prepare a decree on the basis of this judgment and order at an early date, preferably within six weeks.




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(S. K. Singh, J)
Chairperson

/SC/

