

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

Dated: 20/07/2022

**MISC APPLICATION/246/2019
IN
BROADCASTING PETITION/557/2018
With
MISC APPLICATION/49/2020**

Den Network Ltd. ...Petitioner(s)

Versus

Bhavya Broadcast Pvt Ltd. ...Respondent(s)

**MISC APPLICATION/247/2019
IN
BROADCASTING PETITION/558/2018**

Den Network Ltd. ...Petitioner(s)

Versus

Bhavya Broadcast Pvt Ltd. ...Respondent(s)

**BEFORE HON'BLE MR. JUSTICE DHIRUBHAI NARANBHAI PATEL, CHAIRPERSON
HON'BLE MR. SUBODH KUMAR GUPTA (MEMBER)**

For Petitioner

Mr. Vibhav Srivastava, Advocate

For Respondent

Mr. Mritunjay Kumar Singh,
Advocate With

Mr. Premshanakar Jatashankar
Tiwari, Proprietor

ORDER

1. **M.A. No. 49 of 2020** - This application has been preferred by the original respondent for modification of our order dated 20.1.2020. Counsel for the applicant in this M.A. (Original Respondent) seeks permission to withdraw this application. Permission to withdraw the application is granted. This M.A. is disposed of as withdrawn.

2. **B P. No. 557 of 2018** – Counsel appearing for the petitioner submits that despite preliminary decree passed by this Tribunal on 5.7.2019 in favour of petitioner, the respondent has not yet complied and has failed to pay the amount as per the directions of this Tribunal. For the ready reference, the relevant part of **our order dated 5.7.2019 in B.P. No. 557 of 2019** reads as under: -

“For the purpose of obtaining a partial decree on the basis of admissions in the reply in both the petitions, the learned counsel for the petitioner has placed reliance upon the provisions in Rule 6(1) of Order 12 of Code of Civil Procedure and also on averments in paras 6 and 7 of the reply.

On hearing learned counsel for the respondent it appears that respondent has admitted an amount of Rs. 1,59,31,509/- in B.P. No. 557 of 2018 and further amount of Rs. 9,45,003/- in B.P. No. 558 of 2018. Thus the total amount admitted as dues payable by the respondent to the petitioner is Rs. 1, 68,76,512. Learned counsel for the respondent has submitted a composite schedule in both the petitions. The schedule discloses that starting from 6.8.2019, the respondent proposes to pay the aforesaid admitted dues in 24 equal monthly instalments, each of Rs. 7,03,188/-.

Learned counsel for the petitioner submits that the admitted amount indicated above should be paid to the petitioner forthwith and there is no good reason to grant such large number of instalments when the amount has remained due for a long time and the petition was filed in 2018.

Learned counsel for the respondent has taken the plea of financial difficulties being faced by the respondent company. He should furnish the relevant details showing financial difficulties on affidavit after advance service upon the petitioner's counsel. Petitioner would be at liberty to file reply affidavit, if required.

Post the matter under the same head on 29.07.2019.”

(Emphasis supplied)

3. Thereafter again the matter was listed for further hearing. The respondent has failed to comply with our order dated 5.7.2019 and hence **further detailed order was passed on 14.8.2019.** For ready reference, the relevant part of the said order read as under: -

“On 05.07.2019 learned counsel for the respondent had submitted a composite time schedule for payment of admitted dues in B.P. No. 557 and 558 of 2018. As per the schedule the respondent proposed to pay Rs. 1,68,76, 512/-in 24 equal installments, each of Rs. 7,03,188/-. On the next date, documents were filed on behalf of the respondent in support of its plea that the company in a poor financial health. On the last date, a counter offer was made on behalf of the petitioner that instead of taking steps for execution to realize the admitted dues, it will be satisfied for the time being if the admitted dues are paid by the respondent in monthly installments of at least of Rs. 10 Lakhs per month. Today, learned counsel for the respondent has accepted that offer made on behalf of the respondent and has submitted a

revised composite schedule for payment. The payment schedule submitted today shows that the first installment of Rs. 10 Lakhs shall be paid on 16.08.2019 and thereafter on 15th of each succeeding month so as to clear the entire admitted outstanding dues in 17 installments. We direct accordingly. The payment should be made either through Demand Draft or RTGS. This order shall not prejudice either of the parties in any matter pending in another court or forum. For the remaining claims raised through this petition, the petition will be heard in due course. Let it be listed before the Court of Registrar on 29.08.2019 for passing necessary orders and directions to make the case ready for hearing."

(Emphasis Supplied)

4. Thereafter further matter was adjourned time and again and this

Tribunal passed **the following order on 30.9.2019: -**

"Prima-facie we find the respondent to be in disobedience of our order dated 14.8.2019.

Why the penalty should not be imposed, shall be decided in the light of reply that they may file by the next date, otherwise this M.A. shall be decided ex-parte.

Post the matter under the same head on 22.10.2019."

(Emphasis Supplied)

5. Thereafter the matter was adjourned and this Tribunal has passed various orders, but the respondent has failed to comply with the orders. As per the aforesaid orders, the liability of the respondent was to make the payment of Rs. 1,68,76,512/- out of which Rs. 1.15 Crore has already been paid.

6. Thus, it is submitted by counsel for the petitioner that there is outstanding amount of Rs. 53,76,512/-. This amount is yet to be paid by the respondent.

7. Mr. Prem Sagar Jatashankar Tiwari, S/o. Jatashankar Tiwari is present in person along with the counsel for the respondent.

8. We, hereby direct the respondent to make payment of Rs. 53,76,512/- on or before 22.8.2022. **If the amount is not paid by the respondent to the petitioner by Bank Draft, we hereby direct -**

(i) The Head of Police Station of Sector 63, Gautam Budh Nagar, U.P. 201 301 to apply seal upon property of the respondent which is narrated as under: - Arihant Mircosystems Pvt. Ltd., C-38, Sector – 63, Gautam Budh Nagar, UP – 201 301.

(ii) The Paschimanchal Vidyut Vitran Nigam Ltd., Urja Bhawan, Meerut, U.P. to disconnect the supply of electricity at the following premises – Arihant Microsystem Pvt. Ltd., C-38, Sector – 63, Gautam Budh Nagar, UP – 201 301 if the amount is not paid by the respondent on or before 22.8.2022.

(iii) The New Okhla Industrial Development Authority (Noida), Gautam Budh Nagar, UP to disconnect the supply of water in Arihant Microsystem Pvt. Ltd., C-38, Sector – 63, Gautam Budh Nagar, UP

– 201 301 if Rs. 53,76,512/- is not paid by the respondent to the petitioner on or before 22.8.2022.

9. Party in-person for respondent who is present as stated hereinabove shall supply the photocopy of the electricity bill as well as photocopy of water bill of the aforesaid premises during the course of the day. The same shall be tendered to this Tribunal and copy whereof shall be supplied to the counsel for the petitioner.

10. We hereby direct the Registry of this Tribunal to send the copy of this order: -

- (i) To the Head of Police Station of Sector – 63, Gautam Budh Nagar, UP – 201 301.
- (ii) New Okhla Industrial Development Authority, Noida, Gautam Budh Nagar, UP.
- (iii) The Police Station to Paschimanchal Vidyut Vitran Nigam Ltd., Urja Bhawan, Meerut, U.P.

11. We also direct the petitioner to serve the copy of this order by Dasti service to

- (i) To the Head of Police Station of Sector – 63, Gautam Budh Nagar, UP – 201 301.

- (I) New Okhla Industrial Development Authority, Noida, Gautam
Budh Nagar, UP.
- (II) The Police Station to Paschimanchal Vidyut Vitran Nigam Ltd., Urja
Bhawan, Meerut, U.P.

12. This matter is adjourned to 29.8.2022.

**(JUSTICE D. N. PATEL)
CHAIRPERSON**

**(SUBODH KUMAR GUPTA)
MEMBER**

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