
(2024) 05 TDSAT CK 0027

In the Telecom Disputes Settlement And Appellate Tribunal

Case No : Telecom Petition No. 9, 10 Of 2024 With Misc Application No. 153, 154, 167, 168, 180, Of 2024

Reliance Communication Ltd

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 09-05-2024

Acts Referred:

Citation : (2024) 05 TDSAT CK 0027

Hon'ble Judges : Dhirubhai Naranbhai Patel, Chairperson; Subodh Kumar Gupta, Member

Bench : Division Bench

Advocate : Saket Singh, Chaitanya Safaya, Aanchal, Gurjas Narula, Khalid Hussain, Anita Verma, Dhawlendu

Judgement

1. Learned senior counsel appearing for the petitioner has argued out at length M.A. No. 180 of 2024 along with the documents which are placed on record. Neither the counsel appearing for the respondent nor the officers who are present on behalf of Union of India namely Mr. Khalid Hussain, Director (LFP), Ms. Anita Verma, Director (LFA) and Mr. Dhawlendu, ACAO, LFP of Department of Telecommunications (DoT) are aware about the provision of law about the time limit of 45 days for filing of the documents for lawful deductions from the total turnover as has been supplied by the petitioner.

2. The respondent's submission is that after 45 days the documents have been supplied by the petitioner and, therefore, the documents have been ignored by the respondent.

3. Our specific query to the counsel for the respondent as well as to the aforesaid three officers of the respondent – Union of India that under which provisions of Rules and Regulations 45 days' limitation has been prescribed, they are unable to give any reply and they are seeking time. Time, as prayed for, is granted.

4. Counsel for the petitioner has argued out the case and submitted that the

respondent is going to encash the Bank Guarantees. Counsel appearing for the petitioner has further submitted that this petition has been preferred for 20 Circles for NLD and ILD licences. The respondent are going to encash the total Bank Guarantees of this petitioner of approximately Rs.2000 Crores as submitted by counsel for the petitioner.

5. The main counsel for the Union of India is not present when the matter is called out.

6. The petitioner is seeking stay against the implementation of the notice dated 5.4.2024 which is at Annexure – D of M.A. No. 180 of 2024.

7. The respondent are unable to convince this Tribunal about the limitation of 45 days for submitting the documents for deductions from the gross revenue whereas the petitioner submits that they have already supplied all the documents for lawful deductions from the gross revenue and the respondent has ignored the documents and, therefore, they have rejected the claim of the petitioner for deductions of approximately Rs.17 Crores.

8. As per the respondent the total dues payable by the petitioner to the respondent as at the end of March, 2023 is approximately Rs.49 Crores.

9. We, therefore, restrain the respondent from encashing the Bank Guarantee except worth Rs.49 Crores.

10. Thus, we hereby clarify that out of total Bank Guarantees given by the petitioner, except worth Rs.49 Crores of the Bank Guarantees, we hereby restrain the respondent from encashing the rest of the Bank Guarantees.

11. If Bank Guarantees worth Rs.49 Crores are encashed by the respondent, the same will be subject to outcome of this petition. If the petitioner succeeds fully or partially, then amount encashed by the respondent shall be given as set off in the final liability of the petitioner, if any. The encashment of the Bank Guarantees worth Rs.49 Crores shall not tantamount to admission of any facts either by the petitioner or by the respondent.

12. With these observations, this M.A. will be listed along with Telecom Petition on 17.5.2024 under the heading "For Hearing".

13. Meanwhile, the respondent is permitted to file reply in the main Telecom Petition as well as in the Miscellaneous Application.