
(2023) 08 TDSAT CK 0023

In the Telecom Disputes Settlement And Appellate Tribunal

Case No : Broadcasting Petition No. 28, 36 Of 2020 With Misc Application No. 106, 107, 119, 120 Of 2020

Vodafone Idea Limited

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 29-08-2023

Acts Referred:

Citation : (2023) 08 TDSAT CK 0023

Hon'ble Judges : Biresh Kumar, Registrar

Bench : Single Bench

Advocate : Lakshmeesh S. Kamath, Samriti Ahuja, Abhay Prakash Sahay, Sudhanshu Prakash

Judgement

1. It was submitted on behalf of the Petitioner that after going through the case file they are filing fresh draft Issues in T.P.No.36 of 2020.

2. It was further submitted that the Issues involved in the present case are strikingly similar to T.P.No.28 of 2020 and, thus, the Issues may be settled. The learned counsel Mr. A.P.Sahay appearing for the Respondents (Union of India) submitted that they have already filed draft Issues in the instant matter.

3. Heard the parties and perused the record of the case, and in the light of the material brought on record of the case, the following Issues are settled in:

T.P.No.36 of 2020

ISSUES

i. What shall constitute improper submission or deficiency in the self-certificate so as to incur the liability of penalty under Clauses-7.1 and 7.1.1. of the Dept. of Telecommunications' Circular dated 20.11.2013 ?

ii. Whether penalty can be imposed in case of incomplete / improper/ non-submission or any other discrepancy in site data, shared site data and / or

Appendix-A to D (as applicable for the type of certificate) to test the procedure prescribed in the guidelines dated 2.10.2012 and 4.6.2018 ?

iii. Whether BCCH frequencies are relevant and required during the Broadband Measurement Testing especially when the TSPs are given option to choose the mode of testing ?

iv. Whether non-capturing of correct BCCH frequencies for broadband testing would constitute to be improper submission or deficiency in self-certificate making the TSP liable for penalty under Clause-7.1 of the DoT Circular dated 20.11.2013?

v. Whether the Petitioner is entitled to a decree for setting aside the Demand Notice bearing No.8/8/EMR-VSL/TERM-PB/2013 (VOL.II)/25 dated 4.3.2020 (Annexure-P-1) along with rejection letters dated 8.6.2020 along with letters rejecting the representations along with letter dated 24.6.2020 of the Petitioner seeking to en-cash the Bank Guarantee ?

vi. Whether procedure for harmonization as communicated on 31.5.2016 is binding and operational or is still in vogue on the date of imposition of penalty in the instant case ?

vii. To what other relief / reliefs the Petitioner is entitled to ?

4. Four weeks time is prayed and allowed to the Petitioner to file their evidence affidavits. The Respondents may file their evidence affidavits within four weeks thereafter.

5. It was further submitted that they may be granted further time for filing their evidence affidavits in T.P.No.28 of 2020 which shall be filed simultaneously with the evidence affidavits in the instant case. The time as prayed is allowed. Let the matters be listed for "Directions" on 31st October, 2023.