

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2600 OF 2006

Star India Pvt. Ltd.

..Appellant

(s)

Versus

Asianet Satellite

..Respondent

t(s)

WITH S.L.P.(C) NO. 9625 OF 2006

O R D E R

Appeal admitted.

We have heard counsel for the parties and with their consent we proceed to dispose of this appeal.

The Tribunal by its impugned order dated March 3, 2006 has made the

following directions in the operative part of the order :

"We accordingly direct that the parties shall reconcile the accounts for the period 1.1.2003 to 31.12.2003 as per the terms of the written agreement for that period and on such reconciliation if any amount is found due by the Respondent to the Petitioner, the same shall be paid within 30

days. In the case of reconciliation showing excess amount having been paid by the Respondent for the said period, credit shall be given by the Petitioner to the Respondent to be adjusted towards the dues after 31.12.2003.

In regard to the period after 31.12.2003 accounts would accordingly need to be reconciled on the basis of reasonable subscriber base as indicated herein above and on that basis the amount payable to anyone of the sides

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would be determined, and parties will further enter into an agreement for continued supply of signals, as per the Interconnect Regulations and in particular taking into account our observations in regard to the need to ensure that the terms are non-discriminatory, reasonable and fair. We give 30 days time to the parties for this purpose. In this period of 30 days the signals would be continued as before on the existing terms on the basis of which the signals were being given during the pendency of the petition subject to the final reconciliation. In case agreement is not reached between the parties, the Petitioner would be free to disconnect the signals and the Respondent would be free to approach this Tribunal for any relief that it may be entitled to under the TRAI Act and the related regulations."

So far as the first paragraph of the direction is concerned, that has attained finality since no appeal has been preferred against that part of the order which relates to the period 1.1.2003 to 31.12.2003.

In regard to the period 1.1.2004 to 30.4.2006, the Tribunal has directed that the accounts should be reconciled on the basis of reasonable subscriber base as indicated in the order and on that basis the amount payable to anyone of the parties would be determined. The parties have further been directed to enter into

an agreement for continued supply of signals and to ensure that the terms are non discriminatory, reasonable and fair.

For the subsequent period, we are informed, a separate dispute has been raised which is pending before the Tribunal.

Having considered all aspects of the matter, we consider it appropriate

that rather than leaving the parties to determine a reasonable subscriber base, the Tribunal itself should make an inquiry into the matter and determine the issue on the basis of the material that the parties may produce before the Tribunal. For

this purpose, the Tribunal may give appropriate directions to the parties

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whereafter it shall consider the evidence produced by the parties and determine the question finally.

We have not expressed any opinion on the observations made and

principles laid down by the Tribunal in its order, and this order should not be

considered either as approval or disapproval of the principles enunciated or

observations made by the Tribunal as contained in the impugned order.

Since several disputes will be resolved if this issue is determined finally by the Tribunal, we request the Tribunal to dispose of the matter finally, preferably within three months from the date on which a copy of this order is produced

before the Tribunal by either of the parties.

The appeal is disposed of in the above terms.

In view of the order that we have passed, Counsel for the petitioner in

S.L.P.(C) No.9625 of 2006 prays for leave to withdraw the Special Leave Petition.

The Special Leave Petition is accordingly dismissed as withdrawn.

.....J.

(B.P.SINGH)

.....J.

(ALTAMAS KABIR)

New Delhi,
September 19, 2006.

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ITEM NO.6

COURT NO.6

SECTION XIV

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 2600 OF 2006

STAR INDIA PVT. LTD.

Appellant (s)

VERSUS

ASIANET SATELLITE COMMUNICATIONS LTD.

Respondent(s)

(With appln(s) for ex-Parte stay,permission to place addl. documents on record and office report))

WITH SLP(C) NO. 9625 of 2006

(With appln.(s) for exemption from filing C/C of the impugned Judgment and with prayer for interim

relief and office report)

Date: 19/09/2006 This Appeal and Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE ALTAMAS KABIR

For Appellant(s)

Mr. Mukul Rohatgi, Sr.Adv.

Mr. Gopal Jain, Adv.

Mr. R.N.Karanjawala, Adv.

Ms. Kanika Agnihotri, Adv.

Mrs Manik Karanjawala,Adv.

For Respondent(s)

in C.A.2600/06

Ms. Indu Malhotra,Adv.

& SLP(C)9625/06

Ms. Shirin Khajuria, Adv.

Mr. Kunal Tandon, Adv.

Mr. Arjun Suresh, Adv.

Ms. Shilpy Kaushik, Adv.

...2/-

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UPON hearing counsel the Court made the following

O R D E R

C.A.No.2600/2006

Appeal admitted.

The appeal is disposed of in terms of the signed order.

S.L.P.(C) NO.9625 OF 2006

In view of the order that we have passed in Civil Appeal No.2600/2006, Counsel for

the petitioner in S.L.P.(C) No.9625 of 2006 prays for leave to withdraw the Special Leave

Petition. The Special Leave Petition is accordingly dismissed as withdrawn.

(Sukhbir Paul Kaur)
ay Dhawan)

Court Master

(Vij

Court Master