

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.5524 OF 2005

STAR INDIA (P) LTD.

Appellant (s)

VERSUS

SEA TV NETWORK LTD. & ANR.

Respondent(s)

(With appln(s) for stay and intervention)

WITH

C.A. No.D.23197 of 2005

C.A. No.871/2006

(With application for ex-parte stay and permission to place additional documents on record and with office report)

C.A. No.358/2006

Date: 02/03/2006 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARIJIT PASAYAT

HON'BLE MR. JUSTICE TARUN CHATTERJEE

For Appellant(s)

Mr. Harish N. Salve, Sr.Adv.

Mr. Mukul Rohtagi, Sr.Adv.

Mr. Gopal Jain,Adv.

Mr. Prateek Jalan,Adv.

Mr. R.N. Karanjawala,Adv.

Ms. Ruby Singh Ahuja,Adv.

Ms. Kanika Agnihotri,Adv.

Ms. Meenakshi Grover,Adv.

Mrs. Manik Karanjawala, Adv.

For Respondent(s) Mr. K.K. Venugopal, Sr. Adv.

No.1. Mr. Arun Jaitley Sr. Adv.

Mrs. Pratibha M. Singh, Adv.

Mr. Tejveer Bhatia, Adv.

Mr. Saurabh Mishra, Adv.

Mr. Yoginder Handoo, Adv.

Mr. Maninder Singh, Adv.

Contd...2/-

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Mrs. Nandini Gore, Adv.

Mr. Navin Chawla, Adv.

Ms. Indu Malhotra, Adv.

For Intervenor Dr. A.M. Singhvi, Sr. Adv.

Mr. Manu Nair, Adv.

Mr. S. Balaji, Adv.

for M/s. Suresh A. Shroff & Co.

UPON hearing counsel the Court made the following

O R D E R

is that One of the issues raised by learned counsel for the appellant

curate list of cable operators and MSOs. do not give a complete and ac

TV ultimate subscribers and their area of operation. The respondent - SEA

of all concerned to Network Ltd. submitted that it would be in the interest

have the details of subscribers of the cable operators co

irectly identified,

a non- provided that such identification is done uniformly and in
s, discriminatory manner. It was submitted that in the prevalent circumstance
through the the only manner in which the same can be achieved is
n an the deployment of an addressable system which can commonly know
uld identify the Conditional Access System (in short 'the C.A.S. '), which wo
mits the number of subscribers accessing a particular channel. The CAS pe
h he subscriber to also exercise his choice to have only those pay channels whic
chooses to watch.

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impact Keeping in view the nature of the controversy and its likely
on the broadcasting/TV industry as a whole, we are of the view that it would
be necessary to give adequate opportunity to all concerned stake holders
to file their submissions. For this purpose, an appropriate advertisement shall
be published by the TRAI in two leading newspapers as well as on its
own website informing the Associations of Cable Operators, MSOs. and
subscribers of the next date of hearing in this case, which is fixed
to

02.05.2006.

It has been brought to our notice that relying on the impugned orders dated 24.08.2005 and 17.01.2006 of the TDSAT, various petitions are being filed and are pending, seeking similar orders. We feel that it would be appropriate for the TDSAT not to pass any final orders in these matters pending further orders of this Court. However, the present arrangement worked out between the appellant - STAR INDIA PVT. LTD. and respondent No.1 - SEA TV NETWORK LTD. shall continue to be operative in terms of the order dated 01.02.2006.

It is brought to our notice that the TDSAT is also hearing the question as to the directions which can be given to the Associations of Cable Operators and MSOs for disclosing particulars of their subscribers. Pendency of these matters before this Court shall not

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stand on the way of TDSAT hearing those cases and in fact it would be of assistance to have the views of TDSAT before this Court when the matters are next taken up. Further, pendency of these matters shall not stand on the way of the Central Government if it so chooses, to implement the CAS or of the TRAI in devising any system to identify and arrive at the correct number of subscribers of each distributor of TV channels. It is made

clear that that if the matter is not disposed of in the meanwhile by the TDSAT,
the pendency of that matter shall not be a ground for seeking adjournment in
the present appeals.

(Neena Verma)

Court Master

(Vijay Aggarwal)

Court Master