



LICENCE FEE ON REVENUE FROM NON-TELECOM SERVICES

This article is important for all the Licence holders of the Department of Telecommunications who are filing their quarterly and annual statements of Adjusted Gross Revenue with the department of telecommunications in order to do self-assessment of the Licence fees in accordance with the terms of the licence agreement.

Prior to the telecom reforms of October 2021, there was no provision to deduct revenue from other sources/non-telecom sources from the gross revenue earned by the Licensee. Due to which various demands of Licence fee were raised by the Department of Telecommunications after including revenue from non-telecom sources in the Adjusted Gross Revenue. It is needless to mention that those demands were raised after including huge penalties and interests on account of delay in payment of the Licence fee which was calculated in accordance with the licence agreement.

In the year 2020, 2021 and 2022 various Internet Services Providers availed various legal remedies against

those demands by the DoT but the Hon'ble Supreme Court of India upheld the demands of the Department of Telecommunications and directed the Internet Service Providers to clear the same in a time bound manner, said judgement was passed against all the the licensees including the public sector undertakings (PSUs). These Public Sector Undertakings represented their respective incapacities to pay these huge demands and therefore requested for a favour on the basis of one or the other grounds. And the Department of Telecommunications after considering the representations of the PSUs, waived entire demands of License Fee raised after including the income from other sources in the Adjusted Gross Revenue.

Internet Service Providers namely Netmagic Solutions Pvt. Ltd. and Data Ingenious Global Ltd. approached the Telecom Disputes Settlement and Appellate Tribunal, New Delhi for seeking review of the judgements passed by the TDSAT, New Delhi 19.11.2020 and 03.12.2020 whereby the challenge to the demands of revenue on non telecom sources by the above named Internet Services Providers was dismissed by the TDSAT, New Delhi. The Review was sought on the primary ground of

developments and new fact that the DoT has waived off the Licence fee of the Public Sector Undertakings holding the same licence and therefore the demands are also liable to be waived for other Internet Services Providers in order to ensure Level Playing Field in the industry. The Hon'ble TDSAT, New Delhi was pleased to allow the Review Applications and held as reproduced herein below:

30. In view of aforesaid facts and discussions, the issue relating to prayer of the petitioners that the order dated 19.11.2020 be reviewed and they be given parity of treatment in respect of concept of AGR by excluding revenue from non-telecom activities and services is found fit to be accepted in view of stand and action of respondent qua some of the PSUs having the same licence for providing Internet Services. As a result, the impugned demands of licence fee etc. raised upon the petitioners by the DoT by including revenue from non-licensed activities in AGR on the basis of judgement dated 19.11.2020, are set aside. The respondents will have the liberty to raise revised demands by treating the petitioners at par with the exempted PSUs having licence to provide Internet Services.

31. The Review Applications succeed to the aforesaid extent and are allowed accordingly. In the facts of the case, there shall be no order as to costs.

The Department of Telecommunications has also challenged the above said judgement before the Hon'ble Supreme Court of India but the judgement of TDSAT, New Delhi holds ground as on date i.e. 31.03.2024.

DISCLAIMER

The present Article intends to provide brief and general information on the above mentioned subject & in no manner provides exhaustive details on the same. This document shall not be construed as a legal advise & further, shall not form as a base to take any decision without seeking proper legal advise from us. We shall not be responsible for whatsoever sustained by any person relying on this material

CONTACT US

UTKRISHTHA LAW OFFICES

Advocates & Solicitors



Address:- 29, Kailash Hills, New Delhi

Email:- contact@utkrishthalaw.com

Phone:- 8750021607, 9999309222

[Website:www.utkrishthalaw.com](http://www.utkrishthalaw.com)

KEY CONTACTS

**Himanshu Dhawan, Founding
Partner & Advocate**

Email:-

HimanshuDhawan@Utkrishthalaw.com

Phone: +91-9999309222

**Shubham Jain, Managing Partner
& Advocate on Record, Supreme
Court of India**

Email:- ShubhamJain@Utkrishthalaw.com

Phone:- +91-8750021607