



Decision of the Pakistan Telecommunication Authority under Section 7(2) of the Pakistan Telecommunication (Re-organization) Act, 1996 against A Zee Internet Service Providers (SMC-Pvt.) Limited

No. PTA/Finance/Defaulter of CVAS licenses/1731/2021/616

Appeal No. 5/2023
Venue of Hearing: PTA HQs, Islamabad
Date of Hearing: 16th June, 2023

Authority present in hearing:

Maj. Gen. Hafeez Ur Rehman (R):	Chairman
Dr. Khawar Siddique Khokhar:	Member (Compliance & Enforcement)
Muhammad Naveed:	Member (Finance)

Issue:

“Appeal under section 7 (2) of the Pakistan Telecommunication (Re-organization) Act, 1996 for restoration of license No. DIR(L)/CVAS-1065/PTA/2019 dated 24th October, 2019”

1. Relevant facts of the case are that A Zee Internet Service Providers (SMC-Pvt.) Ltd. (the “Appellant”) was awarded a non-exclusive license No. DIR(L)/CVAS-1065/PTA/2019 dated 24th October, 2019 (the “license”) by Pakistan Telecommunication Authority (the “Authority”) to establish, maintain and operate Data Class Value Added Services in Punjab subject to the terms and conditions contained in the license.
2. Being aggrieved from termination of license intimated by the officer of the Authority through letter dated 6th April, 2023 (the “Impugned Letter”), the Appellant under section 7 (2) of the Pakistan Telecommunication (Re-organization) Act, 1996 (the “Act”) filed appeal before the Authority.
3. Back ground of the case is that due to non-submission of Annual Audited Accounts (AAAs) and non-payment of Annual License Fee (ALF) for the year 2021, a Show Cause Notice (SCN) dated 3rd June, 2022 under section 23 of the Act was issued wherein the Appellant was required to remedy the contravention by submitting AAAs and making payment of ALF for the year ended 30th June, 2021 including Late Payment Additional Fee within seven (07) days of the issuance of the SCN and also to explain in writing within thirty (30) days of the issuance of the SCN as to why an enforcement order should not be passed under section 23 of the Act.

4. Before passing an enforcement order, the matter was fixed for hearing before the Officers of the Authority on 24th August, 2022. It would not be out of context to mention here that SCN and hearing notice were issued at the address as provided and maintained by the Appellant with the PTA. Since the Appellant neither replied to the SCN nor attended the hearing and no new address as per regulation 46 of the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006 was communicated, hence an Ex-parte order dated 14th October, 2022 was passed. Relevant para(s) of the said order is reproduced below:

“7.1.....

a) The license is hereby suspended for a period of one month or till the licensee submits AAAs for the year ended 2021 along with payment of Annual License Fee for the said year including late payment additional till date to the Authority, whichever is earlier.

b.) In case of non-compliance of Para 7.1 (a) above, license No. Dir (L)/CVAS-1065/PTA/2019 dated 24th October, 2019 of the licensee shall stand terminated upon expiration of one month after issuance of this order without any further notice.

c). All LDI, LL, TIP and Mobile licensees are directed to suspend immediately all telecommunication facilities extended to the licensee pursuant to the license till further orders.”

5. Due to failure on the part of Appellant to comply with the aforesaid order within the stipulated time, Impugned Letter was issued through which, intimation with regard to termination of license was conveyed.

6. Being aggrieved by the impugned letter, the Appellant preferred an appeal under section 7 (2) of the Act before the Authority mainly on the following grounds:

a. The above subject reference letter/ impugned letter has been received to the appellant, whereby it has been directed to the appellant for submission of accounts details for the year 2021-2022, however, the referred letter was not received to the appellant timely, that's why the appellant could not submit the required data/record in time. It is pertinent to mention here that the appellant has submitted the required documents through TCS to your good office on 8.5.2023.

b. The required documents/accounts statements have been submitted soon after the receipt of referred notice, however, delay if any in submitting the record has been caused, the same may be condoned and the appellant assures that he will submit the record/ data in future in time and no delay will be caused in future.

7. In order to proceed further, the appeal was fixed for hearing before the Authority on 16th June, 2023. Mr. Sattar Irfan (CEO) and Mr. Amir appeared on the behalf of the Appellant on the said date. Before hearing date, the Appellant submitted incomplete annual accounts for the year

ended 30th June, 2021. The Appellant reported nil revenue in above referred accounts. During the hearing, the Appellant was directed to submit AAAs complete in all aspects. Subsequent to the hearing, an email dated 16th June, 2023 was sent to the Appellant at two email addresses i.e. i) irfansattar79@gmail.com; and ii.) <mailto:asksagheer@gmail.com> wherein the Appellant was required to submit Annual Audited Accounts and to pay Annual License Fee for the year ended 30th June, 2021 based on revenue and inter-operator cost for the relevant year. However, no response has been received from the Appellant. For ready reference the relevant contents of email sent to the Appellant is reproduced below:

“Pursuant to hearing of subject appeal held in PTA Headquarters, Islamabad on 16th June 2023, the Authority is pleased to provide an opportunity to A Zee Internet Service Providers (SMC-Private) to submit Annual Audited Accounts and to pay Annual License Fee for the year ended 30th June, 2021 based on revenue and inter-operator cost for the relevant year.

In order to be compliant for the year ended 30th June, 2021 with applicable legal provisions, you are advised to follow the below mentioned guidelines:

- a. Financial statements/Accounts audited by Independent Auditors having valid certificate of practice from either Institute of Chartered Accountants of Pakistan (ICAP) or Institute of Cost and Management Accountants of Pakistan (ICMAP); and
- b. AAAs should comprise of Independent Auditors’ Report, complete set of financial statements and auditors’ certificate having complete break up of total revenue, revenue from licensed services and party wise breakup of all inter-operator costs.
3. It is pertinent to mention that incomplete AAAs or breakup/information as required above shall be considered a non-compliance, hence, exclusion of any revenue stream being non-licensed or deduction on account of inter-operator costs shall not be considered in that case.

Please pay the applicable dues by demand draft/cheque or online.”

8. Matter heard and record perused. As per license condition No.3 read with sub-regulation (1) of regulation 11 of the Class Licensing and Registration Regulations, 2007 and sub-regulations (6) and (7) of regulation 23 of the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006 it is obligatory upon the licensee to pay ALF and submit AAAs within 120 days of the close financial year. The Appellant vide letters dated 26th October 2021, 19th November 2021 and 21st December 2021 and email dated 9th March 2022 was required to submit AAAs for the year ended 30th June, 2021 including late payment additional fee. However, the Appellant did not pay any heed to comply with the same. It is also an admitted position that despite multiple directions and providing fair opportunity of hearing, the Appellant has not submitted complete AAAs till to date.

9. Forgoing in view, it is concluded that the Appellant has failed to comply with the regulatory compliance i.e., terms and condition of license as well as directions with regard to submission of AAAs and payment of ALF, therefore, the Authority could not find any cogent reason and justification to interfere with the Impugned Letter issued in light of order dated 24th October, 2022 passed by the Officers of the Authority. Accordingly, the appeal is hereby disposed of.

^ Maj. Gen. Hafeez Ur Rehman (R)
Chairman

Muhammad Naveed
Member (Finance)

Dr. Khawar Siddique Khokhar
Member (Compliance & Enforcement)

Signed on 21st day of August, 2023 and comprised (04) pages only.