By RPAD

INFORMATION TECHNOLOGY
DEPARTMENT,
SECRETARIAT,
CHENNAI- 600 009.

Letter No. 2626/OP-2/2014, dated: 13.05.2019

From
Dr. Santhosh Babu, I.A.S.,
Adjudicating Officer /
Principal Secretary to Government.

To
Thiru. Umashankar Sivasubramanian and Others
4/125/2, State Bank Colony North
Tuticorin 628 002. (w.e)
Mobile 00971 50 6689450
umasankaras@yahoo.com

The Branch Manager
ICICI Bank
Tuticorin Branch,
Door No.19, V.E.Road
Tuticorin 628002. (w.e)
Tamil Nadu.

Sir,

Sub: Adjudication under the I.T.Act, 2000 – Depositing of Rs.5,50,000/- before the Adjudicating Officer – Orders of Cyber Appellate Tribunal – Payment of Rs.5,50,000 as per the decree of the Telecom Disputes Settlement and Appellate Tribunal, New Delhi – Regarding.

Ref: From the Admin Officer, Telecom Disputes Settlement and Appellate Tribunal order dated 3.4.2019.

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I am directed to forward a copy of the Order of Telecom Disputes Settlement and Appellate Tribunal in respect of Review Application No.2 of 2019 preferred by the Respondent / Applicant i.e. ICICI Bank versus Mr. Umasankar Sivasubramanian and Others.

2. In the above Review Petition, Order has been passed on 3.4.2019 by the Telecom Disputes Settlement and Appellate Tribunal, New Delhi on the above case as mentioned above as follows:

"It is clarified that the liability of the appellant bank / non applicant shall be reduced by the amount of Rs.5,50,000/- along with interest, if any, as soon as the same is made available to the applicant in view of our final judgement and this order, towards satisfaction of the Judgement and decree of this Tribunal. The balance amount alone, which may include the principal amount as well as interest, shall be

further payable by the appellant. Such payment of the deposited amount in favour of the applicant should be made at the earliest, preferably with one month from today. The Review / Application is thus allowed in part and accordingly stands disposed of."

3. I am, therefore, to request you to appear before the Adjudicating Officer on 22.05.2019 at 03.00 P.M. for expressing your views without fail.

Yours faithfully,

13/5/19

for Adjudicating Officer /
Principal Secretary to Government.

13/5/19

TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL
NEW DELHI

Dated 3rd April, 2019

R.A./2/2019
In
Cyber Appeal No. 1 of 2010

ICICI Bank ... Appellant

Versus

Mr.Umashankar Sivasubramanian & Ors. ... Respondents

BEFORE:
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH, CHAIRPERSON
HON'BLE MR. A.K. BHARGAVA, MEMBER

For Appellant : Mr. Karun Mehta, Advocate
Mr.YugamTaneja, Advocate

For Respondent No.1 : Mr. N.A. Vijayashankar, A R

ORDER

Heard the parties in respect of Review Application No. 2 of 2019 preferred by the respondent/applicant.

The applicant is aggrieved by the final judgement and order of this Tribunal dated 10.1.2019. It is relevant to note at the outset that there are two typographical errors in the final judgement. The year shown against the date of the judgement has been wrongly typed as 2018 in place of 2019. The same is corrected. The date of the order shall be read as "10.1.2019" instead of 10.1.2018. It further appears that the Information Technology Act 2000 has been wrongly typed as Information Technology Act 2002. 2002 shall be read as "2000".

The prayers made in the Review Application are contained in paragraph 17 of that application which reads as follows:

" a. That total compensation as decreed by the Adjudicating Officer at Rs. 12.85 lakhs be retained in full.

b. Interest at 12 % p.a. be paid on Rs. 12.85 lakhs from 12.4.2010 to the date of payment after the TDSAT decision.

c. Further costs of Rs. 7.50 lakhs be paid to the respondent for the period representing the appeal process.

d. The amount decreased shall be credited to the NRE account of the Customer."

The prayers nos. "a" and "c" in fact require re-consideration of amount of cost that has been allowed by this Tribunal in the final judgement. It was after noticing the relevant facts and after full application of mind that we held that the cost of Rs. 6 lakhs as incidental expenses appears to be clearly excessive. Against that we allowed a consolidated cost of Rs. 50,000/-. This was in addition to upholding the grant of Rs. 27,850.00 which was paid as Ad Velorem and Application Fee.

We are in agreement with the statement advanced on behalf of the respondent that if a fresh exercise is undertaken for the purpose of prayer "a" and "c" , it would amount to sitting in appeal over the final judgement for which this Tribunal has no powers. The same submission has been advanced in respect of prayer no. "b" also. But we do not agree with the submission so far as the issue of interest is concerned.

We have been informed that at the initial stage of the appeal, the then Cyber Appellate Tribunal had passed an order of interim stay in respect of execution proceedings on 7.6.2010. That order is Annexure-3 to the Review Application. It shows that the execution was stayed on the condition that the appellant shall deposit a sum of Rs. 5,50,000/- before the Adjudicating

Officer within a period of one month. We have been given to understand that the appellant has complied with that direction and the money is lying in deposit and it also appears that it may be earning interest. This much is clear from the submissions made by learned A.R. of the applicant that the amount of Rs. 5 lakhs, which the appellant was permitted to withdraw, has not been withdrawn so far.

In our considered view, the aforesaid amount of Rs. 5,50,000/- alongwith interest, if any, must be made available to the appellant towards the satisfaction of the judgement and order passed by this Tribunal in appeal.

On a perusal of the earlier final judgement and order, we find that although we have concurred with grant of interest over Rs. 4,95,829.00 at 12% simple interest p.a. amounting to Rs. 1,60,648.00 till the date of judgement by the Adjudicating Officer, the issue of award of interest for the subsequent period when the appeal remained pending with this Tribunal has escaped our attention. That has neither been allowed nor rejected.

In the aforesaid situation, we are persuaded to accept the submission advanced on behalf of the applicant/respondent and allow interest at the same rate for the subsequent period i.e. from the date of judgement by the Adjudicating Officer till the judgement of this Tribunal. Such interest shall be over the entire amount allowed by this Tribunal i.e. Rs. 4,95,829.00, Rs. 1,60,048.00 and Rs. 27,850.00. These were the amounts which were found payable by the Adjudicating Officer. So far as consolidated cost of Rs. 50,000/- in place of Rs. 6 lakhs awarded by this Tribunal is concerned, it ought to have been paid within two months as permitted by the final judgement and order. Interest will be calculated at the same rate in

respect of this cost but only for the period after two months from the date of the judgement of this Tribunal.

It is clarified that the liability of the appellant bank/non applicant shall be reduced by the amount of Rs. 5,50,000/- along with interest, if any, as soon as the same is made available to the applicant in view of our final judgement and this order, towards satisfaction of the judgement and decree of this Tribunal. The balance amount alone, which may include the principal amount as well as interest, shall be further payable by the appellant. Such payment of the deposited amount in favour of the applicant should be made at the earliest, preferably within one month from today. The Review Application is thus allowed in part and accordingly stands disposed of.

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(S. K. Singh)
Chairperson

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(A.K. Bhargava)
Member

/SC/

10/4/2012

सुजित गंगोपाध्याय / SUJIT GANGOPADHYAY
प्रशासनिक अधिकारी / Administrative Officer
दूरसंचार विवाद समाधान एवं अपील अधिकरण
Telecom Disputes Settlement & Appellate Tribunal
दूरसंचार विभाग / Deptt. of Telecommunications
भारत सरकार / Government of India
होटल सम्राट, चाणक्यपुरी, नई दिल्ली
Hotel Samrat, Chanakyapuri, New Delhi