

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P.(C) NO. 397 OF 2012

M/S Dishnet Wireless Ltd.

a company incorporated under the Companies Act,
1956 and having its registered office at Spencer Plaza,
5th Floor, 769 Anna Salai, Chennai-600 002
and having office at Lake Chowmuhani,
Krishna Nagar, opp Lake Chowmuhani Bazar,
Agartala, Tripura (West)- 799001
represented by its circle operations head for the telecom
circle of North East Shri P. Kathirvelu

..... Petitioner

- Vs -

1. Union of India,

Department of Telecommunications
(Access Services Cell),
Sanchar Bhawan, 20, Ashoka Road,
New Delhi- 110001
through its Secretary

2. Telecom Regulatory Authority of India,

Mahanagar Door Sanchar Bhawan,
Jawaharlal Nehru Marg,(Old Minto Road),
New Delhi- 110 002
through its Chairperson

3. State of Tripura,

through its Secretary Finance,
Government of Tripura, Agartala

.....Respondents

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioner : Dr. A.K. Saraf, Sr. Advocate
Mr. S. Chetia, Advocate
Mr. K. Roy, Advocate

For the respondents : Mr. A. Roy Barman, C.G.C.

Date of hearing & order : 15.10.2015

Whether fit for reporting : YES / NO

JUDGMENT & ORDER (ORAL)

Heard Dr. A. K. Saraf, learned senior counsel assisted by Mr. S. Chetia, learned counsel and Mr. K. Roy, learned counsel appearing for the petitioner as well as A. Roy Barman, learned C.G.C. appearing for the respondents.

2. At the outset Mr. Roy Barman, learned C.G.C. has made a statement that in view of the decision of the Telecom Dispute Settlement and Appellate Tribunal, New Delhi in **Celular Operative of India vs. Union of India and another** (Petition No.15 of 2012) delivered on 01.12.2012, the Union of India has decided to refund the amount as realised as penalty from the cellular operators after recalculation as per the Circular No. 800-64/2012/VAS dated 02.06.2014. Mr. Roy Barman, learned C.G.C. has therefore submitted that in view of the decision contained in the Circular dated 02.06.2014 (Annexure-III) to the reply filed by the respondent in I.A. No.382/2015 arising from WP(C) No. 397/2012 this writ petition has become infructuous and

nothing remains for adjudication. If it is found after recalculation that the writ petitioner M/S Dishnet Wireless Ltd. is entitled to refund, such refund would be made without any reservation. Such recalculation could not be made in terms of that circular dated 02.06.2014, as the respondents were restrained by the stay order in this case.

3. Dr. Saraf, learned senior counsel has on instruction clearly stated that the petitioner is agreeable if the refund is made on recalculation in terms of the Circular dated 02.06.2014 within a time frame as would fixed by this court in closing of the writ petition as infructuous. Having regard to this proposition made by Mr. Roy Barman, learned C.G.C. and as agreed by the petitioner, this court is of the view that necessary time frame is required to be placed in order, as for a petty long time this writ petition is pending in this court. In this context, the respondents are directed to recalculate and to make refund, if any, to the petitioner strictly in terms of the Circular dated 02.06.2014. The entire exercise, inclusive of making payment of refund shall be completed within a period of 4(four) months from today. The petitioner is also directed to cooperate with the respondent in the process of recalculation. However, the respondents shall be at liberty to recover any amount if it is found that the sum is recoverable from the petitioner in accordance

with law. In terms of the above, the writ petition is disposed of.

No order as to costs.

JUDGE

Moumita