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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2482/2019**

BHARTI AIRTEL LIMITED

..... Petitioner

Through Mr Harsh Kaushik, Mr Abhai
Chatropadhya, Advocates.

versus

UNION OF INDIA

..... Respondent

Through Mr Abhay Prakash Sahay, CGSC with
Mr Suraj Kumar, Mr Amit Kishore Sinha,
Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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12.03.2019

CM APPL. 11550/2019

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 2482/2019 & CM APPL. 11549/2019

3. The petitioner has filed the present petition impugning an order dated 07.03.2019, passed by the Telecom Disputes Settlement & Appellate Tribunal, New Delhi (TDSAT).
4. The petitioner is, essentially, aggrieved inasmuch as the TDSAT has declined to grant an interim relief. In view of the above, the petitioner is now required to pay the penalty, amounting to a sum of ₹ 22.50 lakhs. This penalty has been levied on the allegation that the petitioner's point of sale

(PoS) was selling pre-activated SIMs.

5. A police raid was conducted on 11.09.2018 at a PoS, located in Barabanki District of Uttar Pradesh. During the said police raid, 260 pre-activated SIM cards were seized, out of which 45 SIM cards were serviced by the petitioner.

6. It is the petitioner's case that the said seizure does not lead to the conclusion that the petitioner had violated the Subscriber Verification Guidelines. The petitioner contends that in terms of the said guidelines, the SIM can be activated only if the subscriber is duly verified. In this case, the same was done by verifying the biometrics of the subscriber and the Customer Application Form (CAF) was auto-generated. It is also contended that the generation of CAF is an automatic process and it is generated from information received automatically from the Unique Identification Authority of India (UIDAI). The learned counsel appearing for the petitioner states that the petitioner cannot be held liable for any misconduct.

7. It is seen that the said matter is the principal dispute, being examined by the TDSAT, and, therefore, this court is not inclined to examine this controversy in this petition. TDSAT has declined to pass any interim order as in its *prima facie* view, the possibility of sale of pre-activated SIMs is not ruled out.

8. The learned counsel appearing for the petitioner, submits that this issue is of vital importance as the petitioner operates in 22 circles and this issue continues to arise, repeatedly.

9. This Court is also not inclined to interfere with the impugned order. However, it would be open for the petitioner to apply to TDSAT for an early disposal of the petition.

10. The learned counsel appearing for the petitioner states that the penalty will be paid within a period of four weeks, from today.

11. In view of the above, the respondents shall not take any coercive action for the recovery of the penalty, till the expiry of the said period and if any such steps have been taken, the respondent shall withdraw the same. Needless to state that any penalty deposited by the petitioner would be subject to the outcome of the petition before the TDSAT. The petition is disposed of. The pending application is disposed of.

12. Order *dasti*.

VIBHU BAKHRU, J

MARCH 12, 2019

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