



Enforcement Order under Sub-section 3 of Section 23 of the Pakistan Telecommunication (Re-organization) Act, 1996 against Musa and Shayan Communications (Pvt.) Limited regarding non-Submission of Annual Audited Accounts and non-payment of Annual License Fee for the years ended 30th June, 2012 and 2013

File No: PTA/Finance/ CVAS -Data/Musa & Shayan Communication/1396/2014

Date of Issuance of Show Cause Notice: 22nd July, 2014
Venue of Hearing: PTA HQs, Islamabad
Date of Hearing: 17th September, 2014

The Issue:

“Non submission of Annual Audited Accounts and non-payment of Annual License Fee for the year ended 30th June, 2012 and 30th June, 2013”

Panel of Hearing:

Tariq Sultan: Member (Finance)
Abdul Samad: Member (Compliance & Enforcement)

ORDER OF THE AUTHORITY

1. This order shall dispose of the proceedings initiated through the Show Cause Notice ‘SCN’ bearing No. PTA/Finance/CVAS Defaulters/1083/88 dated 22nd July, 2014 served to the Musa and Shayan Communication (Pvt.) Limited (the "licensee") by the Pakistan Telecommunication Authority (the Authority) under Sub-section 3 of Section 23 of the Pakistan Telecommunication (Re-organization) Act, 1996.

2. Briefly stated relevant facts of the case are that Pakistan Telecommunication Authority (the “Authority”) in exercise of its powers under section 5 read with section 21 of the Pakistan Telecommunication (Re-organization) Act, 1996 (the “Act”) awarded a non-exclusive Class Value Added Services (CVAS) license bearing No. DIR(L)/CVAS-426/PTA/2011 dated 12th December, 2011(the “License”) to Musa and Shayan Communication (Pvt.) Limited (the "licensee"), for establishment, maintenance, operation and provision of Data CVAS in Punjab, subject to the terms and conditions contained in the license.

3. As per terms and condition and enabling statutory provision of prevailing law time being in force, the licensee is under obligation so abide the terms and condition of license in true letter and spirit. The licensee vide license condition No. 3 of the license read with regulation 11 of the Class Licensing and Registration Regulations, 2007 (the

“CL Regulations”) and regulation 23 of the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006 (the “Regulations”) was mandated to submit Annual Audited Accounts (AAAs) and to pay Annual License Fee (ALF) within 120 days of the end of the financial year.

4. The Authority took notice of the fact that the licensee has neither submitted AAAs nor paid ALF for the years ended 30th June, 2012 and 2013. It would not be out of context to mention here that the licensee vide letters dated 2nd October, 2012 and 9th October, 2013 was required to submit AAAs and to pay ALF for the said financial years but despite the repeated demands nothing has been done in this regard.

5. Resultantly, due to contravention of the said license condition read with applicable regulations, the Authority, under section 23 of the Act took cognizance of the aforesaid persistent default and issued a Show Cause Notice (SCN) on 22nd July, 2014 to the licensee, wherein the licensee was required to remedy the contravention by submitting AAAs and ALF with seven (07) working days from the date of issuance of SCN and explain in writing as to why strict action may not be taken against it under Sub-section 3 of Section 23 of the Act for aforesaid contravention.

6. Before passing an enforcement order under sub-section 3 of section 23 of the Act, the matter was fixed for hearing on 17 September, 2014 but no one appeared on behalf of the licensee. It would be pertinent to mention here that SCN dated 22nd July, 2014 and hearing notice dated 09th September, 2014 were issued on the address as provided and maintained by the licensee with the Authority and were not received back as undelivered. Despite the fact, it was clearly stated in the said notice that in case of non-appearance, the matter will be decided *ex-parte*, neither any one appeared before the Authority nor any response was received from the licensee. Consequently, the hearing penal left with no option except to proceed *ex-parte* against the licensee as per available record.

7. After the perusal of the record, it is found that the licensee have failed to comply with the terms and conditions of the license and have willfully and knowingly violated the requirements of the license condition No.3 of the license read with regulation 11 of the Class Licensing and Registration 23 with respect to submission of AAAs and ALF as well as SCN issued to the licensee. The conduct of the licensee in terms of accomplishment of obligations contained in the license is contumacious and perverse which falls within the ambit of sub-section (3) of section 23 of the Act.

8. **ORDER:**

8.1 Keeping in view the above mentioned facts coupled with the available record, the Authority hereby decides as under:

- a. The license No. DIR(L)/CVAS-426/PTA/2011 dated 12th December, 2011 is hereby suspended for a period of one month or till the submission of AAAs along with the payment of ALF for the financial years ended on 30th June, 2012 to 2013 including late payment additional fee @ 2% per month or part thereof on the outstanding amount for the years ended on 30th June, 2012 to 2013, whichever is earlier.

- b. In case of non-compliance of Para 8.1 (a) above, license No. DIR(L)/CVAS-426/PTA/2011 of the licensee, i.e., Musa and Shayan Communication (Pvt.) Limited, shall stand terminated upon expiration of one month after the date of issuance of this order without any further notice.
- c. All LDI, LL and Mobile licensees are directed to suspend immediately all telecommunication facilities extended to the licensee pursuant to the license till further orders of the Authority.

Tariq Sultan
Member (Finance)

Abdul Samad
Member (Compliance & Enforcement)

Signed on 10th day of October, 2014 and comprises of (3) pages only.