



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1 ISLAMABAD
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Enforcement order under sub-section 3 of section 23 of the Pakistan Telecommunication (Re-organization) Act, 1996 against M/s. Toor Technologies (PVT.) Ltd

File No. 15-26/CPPS-64/Fin/PTA

Date of Issuance of Show Cause Notice: 8th September, 2006

Venue of Hearing: PTA HQs, Islamabad
Date of Hearing: 28th November, 2006

The Panel of Hearing Present:

Director General (Finance):	Head
Director (Litigation & Adjudication):	Member
Deputy Director (Wireline Licensing):	Member

The Issue:

“Non payment of PTA dues and failure in submitting annual audited accounts”

DECISION OF THE OFFICERS OF THE AUTHORITY

BRIEF FACTS:

M/s. Toor Technologies (Pvt.) limited (the “licensee”) is a private limited Company incorporated under the Companies Ordinance, 1984 and is engaged in the business of Card Payphone Services in Pakistan vide non-exclusive licenses No. DIR (C)/L/PTA/308/2000 dated 18th August, 2000 issued by the Pakistan Telecommunication Authority (the “Authority”) to establish, maintain and operate Card Payphone Services on the terms & conditions contained in the license.

2. The licensee defaulted in payment of PTA dues on account of annual license fee amounting to Rs. 751,666/- for the years ended 30th June, 2001, 2002, 2003 and 2004 nor submitted annual audited accounts for the year ended 2005, (that is why calculation of annual license fee for the years 2005 and 2006 is pending). In this regard PTA made various requests to the licensee but in vain. Hence, a Show Cause Notice (the "Notice") dated 8th September, 2006 under section 23 of the Act was issued to it requiring it to comply with the same by remedying the contravention by depositing the annual license fee till the year ended 30th June, 2005 and submitting annual audit accounts within seven days and also submit written reply to the Notice within thirty (30) days of the issuance of the Notice and explain as to why the license should not be suspended, terminated or any other enforcement order should not be issued against it under section 23 of the Act.

3. The licensee submitted its reply to the Notice dated 13th September, 2006. In the reply the licensee took the stance that licensee has vide its letter dated 23rd November, 2005 communicated to PTA detailed reasons for its inability to make the payments but PTA has not responded. The licensee also submitted annual audited accounts for the year ended 30th June, 2005 and requested to make payments in installments. The licensee further stated that it sustained huge loss due to earth quake last year, therefore, its annual license fee either be waived off entirely or reduced so that it could be easy for the company to make payments in installments. As the reply to the Notice was not satisfactory, therefore, Hearing Notice dated 6th November, 2006 was served on the licensee requiring it to attend hearing on 16th November, 2006. On request of the licensee hearing has been rescheduled on 28th November, 2006 which was communicated to the licensee vide PTA letter dated 10th November, 2006.

4. Mr. Salman K. Shirwani (CEO/Chairman) and Mr. Wasil Khan Shirwani (Director), the representative of the company/the licensee/ attended today's hearing. The licensee argued that was not able to start its services during the first year of its license owing to change of management and the company was able to enter into interconnect agreement with PTCL on 22nd August, 2001, therefore, license fee for the first year should be waived off. The licensee reiterated its position taken earlier in response to the Show Cause Notice. The licensee further submitted its reply in writing, which is reproduced as under:

POINTS FOR CONSIDERATION

1. *Toor Technologies (Pvt.) Limited was established on 27th May 2000 for the primary purpose of running the business of payphones (incorporation certificate enclosed).*

2. *The license for running the business of payphones was granted by PTA to the said company on the 18th of August 2000 (copy of the license is enclosed).*
3. *Unfortunately for the reasons best known to them the pervious owners of the company could not start their business.*
4. *The management of the company was then acquired by the present owners on 31st July 2001 (copy of Form 29 enclosed).*
5. *No business was carried out between the period of issuance of license and transfer of ownership but the PTA has charged the renewal of license fee from the company which in fact should have been waived off because during this period no business was carried out.*
6. *We have learnt that in the past PTA has charged its dues of license fee only from the day the owners actually commenced their business. If so the similar relief may also be given to us.*
7. *The business of the payphone was commenced by us after 22^d of August 2001 when the first interconnect agreement with PTCL was signed (copy enclosed). At that time we had also deposited a sum of Rs. 125,000.00 on account of renewal of license fee. Later on a sum of Rs. 100,000.00 was also paid by us to the PTA on 27th of June 2005 HBL, Abbottabad.*
8. *As soon as we started our business the PTA raised an objection for the change of the ownership of the company, asking us to get the change approved from PTA before starting the business. We approached the PTA for the transfer of the ownership which took about one year to settle the issue (copy of PTA decision is enclosed).*
9. *We were still yet to consolidate and expand our business when suddenly mushroom of mobile and other LDI and WLL companies launched their business with extremely low call rates.*
10. *The payphone companies started packing up their businesses when the PTA generously granted licenses to mobile, LDI and WLL operators etc. These operators reduced their call rates drastically which adversely affected the businesses of payphone companies.*
11. *The above position was brought by us to the PTA in our various letters stating that this position has drastically reduced our business too and we have suffered a great financial loss. We then requested that the renewal of license fee claimed from us may be received in easy installments.*

12. *In addition to above, due to the last earthquake in the northern areas, lot of our payphone installations were badly damaged and we incurred a considerable financial loss.*
13. *This fact was also brought to the notice of PTA authorities but so far we have not been considered for any compensation or waving off the license fee.*
14. *The difficulties which we faced were beyond our control and therefore we could not pay the renewal of license fee to the PTA, We had, therefore, time and again requested for its waiver or payment through monthly or quarterly installments.*
15. *In view of the circumstances narrated by us as above and in our various letters written to the PTA we request you to kindly consider our submissions sympathetically and waive off the renewal fee as demanded by the PTA for the period the company actually did not commence its businesses. If in any case it is not possible for the PTA to waive off the license fee as stated above then we may be allowed to pay the license fee claimed from us in easy installment of Rs. 30,000.00 per month. We sincerely want to pay PTA dues in spite of these days of hardships and considerable decrease of payphone business.*

5. The licensee further argued that owing to issuance of LL, LDI licenses and permission to Mobile operators particularly Mobilink for provision of payphone services, its business has been suffering a lot and there is no future of its business and all of its investment has been destroyed. Owing to this its 400 payphone at Lahore have been closed down and this fact has been informed to PTA. Furthermore, its 300 payphones installations in Abbotabad and Balakot Areas which were affected badly due to horrendous earthquake, now the licensee is struggling hard to renovate its services in the Northern areas.

6. ORDER

6.1. Keeping in view the above mentioned facts and circumstances mentioned during the hearing and perusal of the documents, the Panel hereby dispose of the Show Cause Notice by passing the following enforcement order:

- (a). As the licensee has not started commercial services during the first year of its license and entered into interconnect agreement on 22nd August, 2001, therefore, annual renewal fee/royalty for the said period shall be waived off keeping in view the circumstances of the company and in the light of Authority's decision in VTT case vide Authority Meeting 168 held on 15th September, 2004. Regarding its loss owing to horrendous earthquake last year, all the penalties imposed on the licensee amounting to Rs. 82,000/- are waived off.

(b). Finance department of PTA has revised the payable dues in the light of Para 5.1(a) above, which arrived at Rs. 615,188/- on account of annual license fee;

(c). The licensee, i.e., M/s. Toor Technologies (Pvt) Ltd is hereby directed to pay the outstanding dues Rs. 615,188/- (ALF upto 30th June, 2005) as per the schedule approved by the Authority vide directive No. DIR (C)/PTA/656/2006 dated 28th September, 2006 in six bimonthly installments starting from 16th December, 2006. Each installment shall be of Rs.102, 532/- per every two months.

(d). In case of failure of the licensee to deposit PTA dues as provided in Para 8.3 (c) above, license No. DIR (C)/L/PTA/308/2000 dated 18th August, 2000 of the company shall stand TERMINATED and recovery proceedings under section 30 of the Act shall be initiated by the Authority against the company for recovery of dues with cost of the litigation as land revenue.

Deputy Director (Licensing)

Director (Litigation & Adjudication)

Director General (Finance)

7. This determination is passed on 7th December, 2006, 2006 and comprises 05 pages.