



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. Zahoor Azam &
Company (PVT.) Ltd**

File No. 15-26/CPPS-62/Fin/PTA

Date of Issuance of Show Cause Notice: 17th May, 2006
Date of Hearing: 21st March, 2007, 23rd
May, 2007 and 5th
June, 2007
Venue of Hearing: PTA HQs, Islamabad

The Authority present:

S. Nasrul Karim Ghaznavi: Member (Finance)
Dr. Muhammad Yaseen: Member (Technical)

The Issue:

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

DECISION OF THE AUTHORITY

BRIEF FACTS:

M/s. Zahoor Azam & Company (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 pursuant to the non-exclusive license No. DIR(C)/L/PTA/292/2000 dated 29th August, 2000 (the “license”) issued by the Pakistan Telecommunication Authority (the “Authority”) to establish, maintain and operate Card Payphone services in Pakistan on the terms & conditions contained in the license.

2. The licensee defaulted in payment of the Authority's dues on account of annual license fee for the year ended 2005 amounting to Rs. 196,166/- and has also been failed to provide its annual audited accounts for the years 2001 to 2005. In response to PTA's various requests for payment and submitting annual audited accounts, the licensee deposited post-dated cheques No.11715311 dated 6th April, 2006, No.11715312 dated 6th May, 2006, No.11715313 dated 6th June, 2006 and No.11715314 dated 25th June, 2006 but all these cheques were dishonoured by the Bank. As the licensee has neither submitted its annual audited accounts nor deposited its Annual License Fee, a Show Cause Notice dated 17th May, 2006 (the "notice") under section 23 of the Act was served on it.

3. The licensee replied the notice vide its letter dated 14th June, 2006. In the reply it took the stance that:

- (i). The Authority allowed transfer of its lines in RTR region to M/s. ACE Quality (Pvt) Ltd with the condition to deposit Rs.4,90,000/- vide its determination dated 13th May, 2004. The needful was done vide pay order dated 14th May, 2004;
- (ii). The licensee entered into sale purchase agreement with M/s. ACE Quality (Pvt) Ltd whereby M/s. ACE Quality (Pvt) Ltd was required to pay Rs.52,95,000 beside handing over back 370 card payphone sets alongwith same quantity of sign boards. M/s. Ace Quality (Pvt) Ltd got letter from PSP of PTCL for running of our business in RTR, FTR, and MTR region whereas M/s. Arsalan Communication (Pvt) Ltd for running its business in NTR1, II, III and ITR region. Furthermore, M/s. Hello Link Telecommunication (Pvt) Ltd in Faisalabad obtained same type of letter for running system in LTR (S), LTR (N);
- (iii). The licensee has contacted the aforementioned companies to pay capital amount, card payphone sets and sign boards as well as paying proportionate amount of different taxes and license renewal fee; and
- (iv). Requested the Authority to call a meeting of the aforesaid companies and settle the dispute so that it could be able to pay all taxes and license fee to the Authority.

4. As the reply was not satisfactory, therefore, prior issuing any enforcement order, a right of personal hearing was granted to the licensee by fixing the case on 21st March, 2007 which was communicated to the licensee vide letter dated 13th February, 2007. Mr. Saleem Khan attended the hearing on behalf of the licensee. During the hearing the licensee reiterated the facts mentioned in Para 3 above and requested to call a meeting. The Authority adjourned the hearing for

also calling other companies to which the licensee had transferred its lines. The hearing was next fixed on 23rd May, 2007 on which date the licensee failed to appear while CEO of M/s. Arsalan Communication (Pvt) Ltd namely Mr. Arsalan Afridi and Mr. Aqeel Ahmed attended the hearing. The case was again fixed for hearing on 5th June, 2007.

5. Mr. Saleem khan and Mr. Zeeshan Saleem represented the licensee, Mr. Muhammad Rohail of M/s ACE Quality (Pvt) Ltd, Mr. Arsalan Afridi of M/s. Arsalan Communication attended the hearing, but no one appeared on behalf of M/s. Hello Link Telecom (Pvt) Ltd and M/s. Ibrahim Communication Company (Pvt) Ltd. During the hearing the Authority asked M/s. ACE Quality (Pvt) Ltd and M/s. Arsalan Communication (Pvt) Ltd to brief about what Mr. Saleem had stated before the Authority. The representative of the M/s. ACE Quality (Pvt) Ltd categorically denied the allegation of payment due to the licensee. He informed that they entered into agreement dated 30th March, 2004 and 17th April, 2004 with the licensee for transfer of lines in RTR and MTR/FTR respectively. But only RTR lines were transferred and the lines of rest two regions were not transferred till date owing to stay order granted by the courts. He further informed that it had already paid Rs. 490,000/- to the Authority as license fee and about 6 million rupees to PTCL on behalf of the licensee, as well as complied with the provisions of the agreements, but the licensee failed to perform its part of the agreement, hence, rest of the lines of MTR/FTR were not transferred to them. The representative of Mr. Arsalan Communication (Pvt) Ltd also refused to accept the allegation of the licensee. He also informed that they had entered into agreement dated 22nd March, 2004 with the licensee for transfer of lines in NTR-I, NTR-2, and ITR.

6. ORDER

6.1. Keeping in view the above mentioned facts and circumstances mentioned during the hearing, the Authority hereby dispose of the notice by passing the following order:

- (a). The licensee, M/s. Zahoor Azam & Company (Pvt) Ltd, has already entered into agreements with M/s. ACE Quality (Pvt) Ltd and M/s. Arsalan Communication (Pvt) Ltd for transfer of its lines. The matters connected to these agreements are also pending adjudication before various civil courts, therefore, the Authority restrains itself from intervening in these matters, on the ground that the dispute arises out of existing agreements for which parties have rightly chosen the competent forum to adjudicate upon.

- (b). As the licensee has failed to make the payment of annual license fee as well as failed to submit annual audited accounts for the years 2001 to 2005, hence, license of M/s. Zahoor Azam & Company (Pvt) Ltd is hereby SUSPENDED for a period of one month or till paying of payable dues, whichever is earlier, for the years ended 30th June, 2003 to 2005 amounting to Rs.196,166/- and submission of annual audited accounts for the years 2001 to 2005;
- (c). In case of failure of the licensee to deposit PTA dues and to submit aforesaid annual audited accounts as provided in Para 6.1 (b) above, license No. DIR(C)/L/PTA/292/2000 dated 29th August, 2000 of the licensee 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 as land revenue. While in case of payment and submission of annual audited accounts as per 6.1(b), the license shall be restored;
- (d). PTCL is directed to forthwith suspend all telecommunication facilities extended to the licensee pursuant to the license, till further orders of the Authority.

(S. Nasrul Karim Ghaznavi)
Member (Finance)

(Dr. Muhammad Yaseen)
Member (Technical)

Signed on 25th June, 2007 and comprises 04 pages.