



*Government of Pakistan*  
**PAKISTAN TELECOMMUNICATION AUTHORITY**  
**HEADQUARTERS, F-5/1, ISLAMABAD**

**Decision of the Authority in Appeal No.09 /2023 filed by Brand Promotion Services  
(Private) Limited**

No. PTA/Services/Numbering/382/2024/92.

Appeal No.09 /2023:	26 <sup>th</sup> August, 2023
Venue of Hearing:	PTA HQs, Islamabad
Date of Hearing:	22 <sup>nd</sup> May, 2024

**Authority present in hearing:**

Maj. Gen. Hafeez Ur Rehman (R):	Chairman
Dr. Khawar Siddique Khokhar:	Member (Compliance & Enforcement)
Muhammad Naveed:	Member (Finance)

**The Issue:**

**“Appeal against order dated 27<sup>th</sup> July, 2023 regarding Reconciliation of outstanding  
ANC against PRS number 0900-222-xx (FY 2005 to 2011)”**

1. This order will dispose of Appeal No. 08/2023 dated 26<sup>th</sup> August, 2023 filed by Brand Promotion Services (Private) Limited (the “**Appellant**”). The Appellant being aggrieved from the order dated 27<sup>th</sup> July, 2023 (the “**Impugned Order**”) passed by the officers of the Authority pursuant to order dated 25<sup>th</sup> August, 2021 issued by Assistant Commissioner (Revenue) Collector Grade-1, South, Karachi regarding reconciliation of the outstanding dues on the account of Annual Numbering Charges (ANC) filed the instant appeal under section 7(2) of the Pakistan Telecommunication (Re-organization) Act, 1996 (the “**Act**”) before Pakistan Telecommunication Authority (the “**Authority**”).

2. Relevant facts of the case are that the Appellant was granted a non-exclusive license No. Dir (L)/PTA/712/2004 dated 4<sup>th</sup> October, 2004 (the “**license**”) by the Authority to establish, maintain and operate Audiotex Services in Pakistan subject to the terms and conditions contained in the license and the provisions of the existing enactments, rules and regulations made by the Authority including new enactments. Further, under regulation 18 (1) of Numbering Allocation and Administration Regulations, 2005, regulation 19 (2) of Numbering Allocation and Administration Regulation, 2011 (“**the Numbering Regulations**”), regulation 12 of the Class Licensing and Registration Regulation 2007 (the “**CLR Regulations**”) and sub-regulations (1) (k) of regulation 23 of the Pakistan Telecommunication Authority (Function & Powers) Regulations, 2006 (the “**Regulations**”), it is obligatory upon the Appellant to pay numbering allocation and usage charges.

3. Due to failure to deposit ANC on the account of PRS numbers, a notice dated 26<sup>th</sup> July, 2013 was issued requiring the Appellant to pay the outstanding dues. However, the

Appellant did not pay the outstanding dues. As a result of non-payment of dues, a recovery petition dated 19<sup>th</sup> December, 2014 under section 30 of the Act for recovery of outstanding dues i.e., Rs.3,750,000/- was filed before District Collector Revenue at Karachi.

4. During recovery proceedings and on the request of the learned counsel for the Appellant, Assistant Commissioner (Revenue), Collector Grade-1, South, Karachi vide order dated 25<sup>th</sup> August, 2021 referred the matter to the Authority for reconciliation/ determination of outstanding dues. Accordingly, reconciliation proceedings were carried out and the matter was fixed for hearing on 29<sup>th</sup> September, 2022, 1<sup>st</sup> March, 2023 and 24<sup>th</sup> May, 2023. Mr. Maqsood Ahmed Bhatti, Advocate High Court represented the Appellant on the said dates. After hearing the Appellant and due deliberations, the matter vide order dated 27<sup>th</sup> July, 2023 ("**Impugned Order**") was decided. For ready reference, the relevant para of the impugned order is reproduced below:

**"8 Order:**

*Foregoing in view the above-mentioned facts coupled with the available record, it is concluded that despite extending all possible timeframe, the above-mentioned facts, the Applicant failed to prove its stance with regard to its liability on the account of recoverable PRS numbers dues, therefore, no change is considered for the amount of recovery of total outstanding dues as mentioned in the Recovery Petition pending before the Assistant Commissioner (Revenue), Collector Grade-1, South, Karachi"*

4. Being aggrieved from the Impugned Order, the Appellant filed the instant appeal before the Authority. The main assertions are reproduced hereunder:

4.1 *That M/s Brand Promotion Services (Pvt.) Ltd. was granted Audiotex license on 04-10-2004 vide No. Dir (C)/L/PTA/712/2004. An interconnect agreement for Audiotex service was signed with M/s PTCL on 05-10-2004. As per clause 11 of the said agreement, the distribution of revenue was to be shared between M/s Brand Promotion Services (Pvt.) Ltd. & PTCL@ 60:40 and under clause 7.4 of the said license, it was obligatory duty of ITA to settle the dispute between both the parties. M/s ITCL as per clause 11 of the said agreement was bound to pay 60% share of the revenue within 15 days of the collection and in case the Authority has granted compensation/waiver to the customer, the such shall be shared 60% by M/s Brand Promotion Services (Pvt.) Ltd. The right of recovery under clause 18 of the said agreement was a surviving accrued right and obligation on the part of M/s PTCL.*

4.2 *That the officers of the Authority also issued notices in person to all directors and employee at their residential address. Mr. Kaleem Ullah Tareen Assistant Director (Law) with mala-fide intentions issued such invalid notices to other legal persons instead of the said Company to fraudulently fasten the liability if any of the said company upon ex-directors as well as the present directors has fraudulently attempted to recover an alleged outstanding amount of **Rs.3,750,000/-** [ref: para # 7.2 of the impugned order] from each director. The para under comment is based on non-reading our reply dated 28.10.2021. We categorically state that PTA did not share an email of PTCL containing a*

complete record of the issue as claimed to have been provided through email dated 11.10.2022. This mala-fide statement has been made to defeat the due process.

- 4.3 That directors and employees contested the issue of notices before the revenue authority thus the case was remand back to the PTA for determination of cases before the officers of the Authority. The officers of the Authority have neither brought on record our written submissions dated 28-10-2021 & 20-06-2023 nor discussed nor passed any order in this respect which reflects their mala fides.
- 4.4 That the Authority has deliberately misrepresented the facts with mala-fide intentions. We were initially allocated numbering plan "0900-106-xx". We submitted our request to change the numbering plan to "0900-222-xx" vide our referred request. PTA issued instructions to PTCL to implement the said **PRS-Numbering Plan** at DTE level which was received on 26.10.2004. The said contentions as mentioned at this belated stage are not agreed. BPS applied for the numbers as per requirement of business feasibility plan. M/s PTCL allocated and directory numbers for Audio Tex service vide letter No. PSP/Tech-049/BPS dated 25-10-2004.
- 4.5 The para #4 is flimsy statements based on surmises and conjectures of the Authority. The Authority has admitted the fact that having caused wrongful loss to Brand Promotion Services by way of forced termination of operation resulted in loss of business as well as market goodwill. PITY has admitted that inventory has junk value of its assets. The Authority has admitted receivable assets but did not mention value in the para under comment. It is also correct and on record that all the notice were issued to the director in person at their personal addresses instead of Brand Promotion Services official address as already evident from the notice annexed elsewhere above. PFA suspended the said Audiotex service w.e.f. 01-07-2010 vide notification reference No. PTA/Finance /ATS /Brand Promotion/ 538/2006 vided dated 20-07- 2010 which was never restored despite compliance with the determination dated No. PTA/ Finance/ ATS /Brand Promotion/ 539/ 2006/ 980 dated 01-04-2010 amounting to Rs.1,912,350/-. M/s BPS successfully obtained commitment from foreign investor for its ambitious plan to scale up its network and services thus applied PTA for grant upgraded CVAS license to establish, maintain and operate CVAS services in Pakistan but PITY did not considered M/s BPS said application for the reasons best known to them. This scale up project was abandoned which ended in total loss. Due to the said adverse action of the PITY, M/s PFCL stopped payment of due share of revenue after August 2009. The same was brought to the knowledge of authority but failed to obtain any relief in the matter. M/s BPS has receivables from M/s PTCL amounting to Rs. 7,780, 504/-.
- 4.6 That the para # 7.1 of the said order is tainted with mala fides. The Authority has with malafide intentions concealed Brand Promotion Services CVAS ease. PTA has illegally and deceitfully charged 1.5% of gross revenue instead of charging 0.5% of gross revenue. The clause 4.1 has been deliberately misrepresented. It is applicable in the case of "Monitoring".

- 4.7 M/s Brand Promotion Services (Pvt.) Ltd. did not apply for any number allocation under the NAAR-2005. PTA claims numbering allocation was transferred to PTA in February 2004 but never communicated any directives related to numbers allocated by M/s ITCL. PTCL continued charging on a monthly basis for such numbers till end of our services i.e. 01-07-2010 which were paid accordingly. Neither there is any clause that ceases numbering allocation power from PTCL nor M/s Brand Promotion Services (Pvt.) Ltd. applied to ITA for any number nor signed any contract with P17. There was no such condition under NAAR-2005 as **"For each number in use whether allocated/assigned to a person on or before the promulgation of these regulations, the annual charges payable in advance by 31<sup>st</sup> July each year on such terms and conditions as determined by the Authority from time to time"**. It was mandatory upon PTA under clause 19 (d) of NAAR-2005 **"if the dues payable to the Authority on account of annual number allocation fee including penalty, if any, are not cleared within a period of one year from the due date"** to withdraw such allocated numbers. The Authority in exercise of its powers under section 23 of the Pakistan Telecommunication (Re-organization) Act, 1996 (the "Act") to issue show cause notice has **limitation of within thirty days** as to why an enforcement order may not be issued. The Authority has no jurisdiction to proceed in **past and closed** transaction days under Section 23 of the Act.
- 4.8 That the officers of the Authority had admitted violation of the section 23 of the Act, 1996. It is admitted that PTA issued SCN dated 22-10-2010 vide No. PTA/ Finance / ATS / Brand promotion / 539 / 2006 / 73 dated 22-10-2009. However Authority being not satisfied, passed the first enforcement order amounting to Rs. 1,912,350/-. Thereafter suspended our services w.e.f. 01-07-2010 which was never restored accepting our requests despite compliance of the said order.
- 4.9 PTA in haste filed a recovery petition with mala-fide intentions before the District Collector, Karachi on 19-12-2014 for recovery of Rs. 3,750,000/- without due process under the provision of NAAR- 2011. The said petition is ultra vires to section 23 of the Act, 1996 as well as regulation 19 of the NAAR-2011. It is on record that our services suspended vide letter No. PTA/ Finance / ATS / Brand Promotion / 539 / 2006 dated 20-07-2010 w.e.f. 01-07-2010 whereas NAAR-2011 was notified by way of the Gazette of Pakistan dated 20-07-2011.
- 4.10 The Authority with mala-fide intention has attempted to implicate the directors and employees to fasten responsibility of the company if any without due process of law. Invalid notices were issued in person to the directors and employees mentioned issued as mentioned above elsewhere. None of the directors or employees has given any guarantee/surety/undertaking to be held responsible in ease of any default of the company. The case was contested on the said ground before the Assistant Commissioner (Rev) Collector Grade-1, South Karachi which was remanded back for determination. Only a person authorized on behalf of the company could legally be representative in the matter where any notice issued by name is invalid in such cases. PTA has filed a case against each director claiming 3,750,700/- which makes a total

amounting to Rs., 15,002,800/-. As per law the notice has to be to the company which is a separately legal person. The observations in the para under comment are flimsy, unwarranted and superfluous based on conjectures and surmises are ultra vires.

4.11 That PTA has raised claim against M/s Brand Promotion Services (Pvt.) without proper determination after lapse of several years of the forced closure of our business operation on 01-07-2010 which has caused serious prejudice with us and undue favor to M/s PTCL. It is proposed that proper investigation in the matter be conducted in accordance with terms and conditions of the said license and rules for due determination of claim of PTA if any in terms of section 23 of the P.T. (Re-Organization) Act, 1996 and appoint an administrator for preservation of receivable assets of the Company for the purpose of remedying the recovery of the final settled outstanding claim. In the view of foregoing submissions, it is humbly submitted that to proceed for recovery if any claim against BPS in accordance with law observing due process after the alleged claim has been determined in accordance with enabling provisions of the Companies Act, 2017.

4.12 PTCL did not pay M/s Brand Promotion (Pvt.) Ltd's huge share amounting Rs. 7,780, 504/-. This issue of default of payment by PTCL was raised several times before the Authority but failed to obtain any relief. It was also published in "the NEWS" dated 21-04-2008 & "JANG" Karachi dated 22-04-2008 are appended here for your ready reference. The Association of Call Center Operators also brought the same issue on record. The Authority has obligatory responsibilities as suggested and defined under section 6 of the P.T. (Re-organization) Act, 1996. PTA functionaries deliberately did not initiate investigation timely under clause (k) of 5.4 of the license agreement issued vide License No. 04-10-2004 vide No. DIR C/L/PTA/712/2004 the Authority has not yet fulfilled its obligatory responsibilities as per clause 7.6.4 of the said license. PTA management functionaries never bothered to resolve such issues but acted as post office. Mr. Adil Khalil, Deputy Director (Tariff) took an eyewash action vide letter No. 15- 9/08 (CA) / PTA dated 26-09-2008 and similar formality was performed by Mr. Zeeshan Gul, Director (Commercial Affairs) vide even number letters dated 08.10.2008 & 10-11-2008. This all caused total loss of physical assets as well as market goodwill amounting to Rs. 50.000 million. M/s Brand Promotion Services (Pvt.) Ltd. has now only appreciable receivable assets amounting over Rs. 7.781 million from M/s PTCL. The Company has become insolvent after such a long closure of our business since 01-07-2010. Audited accounts of last three years are attached. PTA exercise its power to appoint an Administrator in accordance section 23 (4) (a) in respect of receivable assets amounting amounting over Rs. 7.781 million.

5. In order to proceed further in the instant matter, the appeal was fixed for hearing on 22<sup>nd</sup> May, 2024. Mr. Masood Ahmed Bhatti (Legal Counsel) attended the hearing on the said date. Legal counsel appeared on behalf of the Appellant reiterated the same as contended in the Appeal.

## 6. Findings of the Authority:

6.1 Matter heard and record perused. After careful examination of record, followings are the findings of the Authority:

6.1.1 At the very outset it is clarified that by virtue of provision(s) of the Act, the Authority is mandated to regulate the establishment, maintenance and operation of telecommunication system and provision of telecommunication services in Pakistan. For this purpose, the Authority grant licenses. Accordingly, the license was granted to the Appellant for establishment, maintenance and operations of Audio Tex Services in Pakistan. In accordance with license condition No. 4.36, the Appellant has to comply with all the provisions of the Act, Rules, Regulations and terms and conditions of the license.

6.1.2 The Authority under section 5 (2) (k) of the Act is also empowered to develop national numbering plan. In addition, the Authority in exercise of its power conferred under section 5 (2) (o) of the Act promulgated Numbering Regulations. Accordingly, as per regulation 18 (1) of Numbering Allocation and Administration Regulations, 2005, regulation 19 (2) of Numbering Allocation and Administration Regulation, 2011 (**the "Numbering Regulations"**), regulation 12 and sub-regulations (1) (k) of regulation 23 of the Pakistan Telecommunication Authority (Function & Powers) Regulations, 2006 (**the "Regulations"**) the Appellant is required to pay numbering allocation and usage charges.

6.1.3 The Appellant contented prior to promulgation of Numbering Regulation, these numbers were allocated by Pakistan Telecommunication Company Limited (PTLC) thus charges are not applicable. In this regard, it is to highlight that as per record, initial allocation was made by PTCL and in February 2004 numbers were transferred to PTA. In accordance with regulation 19 of the Numbering Regulations promulgated in 2011 provides that each number in use whether allocated to person on or before the promulgation of these regulations shall be liable to annual charges payment.

6.1.4 After hearing held on 22<sup>nd</sup> May, 2024, another reconciliation was carried out and the matter was also taken up with PTCL. As per available record it has been found that 100 PRS number were activated since 2005 till 2011. Thus, in light of applicable regulatory framework the Appellant is required to pay PRS number charges for the said period.

**7. Order:**

7.1 Keeping in view the above-mentioned facts coupled with available record and reconciliation carried out after hearing held on 22<sup>nd</sup> May, 2024, the Appellant is liable to pay outstanding dues i.e. Rs. 3,750,000/- on account of PRS number for a period 2005-2011. Accordingly, the instant appeal is hereby disposed of.

**Maj. Gen. Hafeez Ur Rehman (R)**  
Chairman

**Muhammad Naveed**  
Member (Finance)

**Df. Khawar Siddique/Khokhar**  
Member (Compliance & Enforcement)

Signed on 25<sup>th</sup> day of October, 2024 and comprises of (07) pages only.