



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

**Decision of the Pakistan Telecommunication Authority in Appeal No.10 /2023 filed by Leo's Pakistan (Private) Limited**

No. PTA/Services/Numbering/382/2024/95

Appeal No. 10/2023:	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 ALF & ANC against PRS block 0900-786xx, Toll free No. 0800-78601 and UAN 111-178-601”**

1. This order will dispose of Appeal No. 10/2023 dated 26<sup>th</sup> August, 2023 filed by Leo's Pakistan (Private) Limited (the “**Appellant**”) against the order dated 27<sup>th</sup> July, 2023 (the “**Impugned Order**”) passed by the officers of the Authority on the subject issue. Relevant facts of the case are that the Appellant was granted a non-exclusive license No. Dir (C)/L/PTA/407/2002 dated 6<sup>th</sup> June, 2002 (the “**license**”) by the Pakistan Telecommunication Authority (the “**Authority**”) for establishment, maintenance and operation of Audiotex Services in Pakistan.
2. In accordance with license condition No. 3.2 of the license, the Appellant was required to pay Annual License Fee (**ALF**) equivalent to (a) 25% of initial license fee, plus (b) 1.5% of gross revenue of preceding fiscal year from licensed services or 50% of initial license fee whichever is more for permission to keep operating the license. In addition, it is also relevant to point out that through letter dated 30<sup>th</sup> July, 2004 the Appellant was also informed with regard to rationalization of fee structure in the following manner:

*“With effect from April, 01, 2004, Audiotex Services and Vehicle Tracking Services licensee shall pay to PTA Annual License Fee (ALF) equivalent to 1.5% of Annual Gross Revenue OR 10% of Initial License Fee whichever is higher”*

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 in making payment of account of ALF for the year 2007 to 2010 (including Late Payment Additional Fee), a Show Cause Notice dated 29<sup>th</sup> September, 2011 was issued followed by an Enforcement Order dated 16<sup>th</sup> August, 2012. For ready reference operative part of the Enforcement Order is reproduced below:

*“1.8 For what has been discussed above, the hearing panel has reached to the conclusion that sufficient time as and when required by the licensee has been given, despite the fact that there is no dispute on outstanding dues as demanded after reconciliation of draft accounts provided by the licensee, even than the licensee has not complied with the direction and failed to provide the Annual Audited Accounts and outstanding dues of Rs.4,669,067/-. In light of the afore-referred the hearing panel passes the following orders:*

- a. The license awarded to LEO’s Pakistan (Pvt.) Ltd. is hereby suspended for a period of one month or till the submission of annual audited accounts along with the payment of annual license fee of Rs.4,669,067/-, whichever is earlier.*
- b. In case of non-compliance of Para 1.8 (a) above, LEO’s Pakistan (Pvt.) Ltd. license bearing No. Dir (C)/L/PTA/407/2002 dated 6<sup>th</sup> June, 2002 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 licensee till further orders of the Authority.”*

4. However, the Appellant failed to comply with the said Enforcement Order. As a result thereof, the license was terminated vide letter dated 4<sup>th</sup> January, 2013 w.e.f. 16<sup>th</sup> September, 2012.

5. On the other hand, three notices i.e., i) notice dated 5<sup>th</sup> December, 2017 on the account of PRS number charges; ii) notice dated 7<sup>th</sup> November, 2017 on the account of Toll Free Number charges; and iii) notice dated 5<sup>th</sup> December, 2017 on the account of UAN number charges were issued to the Appellant wherein it was required to pay the outstanding dues, but the same was not paid within time. Due to non-payment of outstanding dues recovery petition dated 9<sup>th</sup> February, 2018 under section 30 of the Act was filed. Section 30 of the Act provides that all fee, fines or other amounts due or payable to the Authority are to be recovered as arrears of the land revenue. Accordingly, for

recovery proceeding for outstanding dues of **Rs. 5,216,242/-** (Rs.4,900,892/- for ALF) + (Rs. 225,000/- for PRS) + (Rs. 85,550/- for Toll free) + (4,800/- for UAN) was initiated.

6. During the course of recovery proceedings, legal counsel for the Appellant requested for reconciliation before the Assistant Commissioner (Revenue), Collector Grade-1, South, Karachi which was allowed and the Appellant approached the Authority for reconciliation of outstanding dues. The reconciliation proceedings were carried out and the matter after providing opportunity of hearings on 29<sup>th</sup> September, 2022, 1<sup>st</sup> March, 2023 and 24<sup>th</sup> May, 2023 the matter was decided on 23<sup>rd</sup> July, 2023 (the "**Impugned Order**"). During reconciliation proceeding Mr. Maqsood Ahmed Bhatti, Advocate High Court attended on behalf of the Appellant. 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 account of recoverable 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"*

7. With this background the Appellant being aggrieved from the Impugned Order filed the instant appeal under section 7 of the Act before the Authority. The main contentions of the Appellant are reproduced hereunder:

7.1 *That the company was granted Audiotex license on 06-06-2002 vide No. DIR (C) / L / PTA/ 407 / 2002. An interconnect agreement for audiotex service was signed with M/s PTCL on 04-11-2002. As per clause 11 of the said agreement, the distribution of revenue was to be shared between the company & PTCL @ 60:40 and under clause 7.4 of the said license, it was obligatory duty of PTA to settle the dispute between both the parties. M/s PTCL 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 the company. The right of recovery under clause 18 of the said agreement was surviving accrued right and obligation on the part of M/s PTCL.*

7.2 *The officers of the Authority also issued notices in person to all ex-directors as well as the present directors 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. He*

has fraudulently attempted to recover an alleged outstanding amount of Rs. 5,216,242/- from each director. 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.

- 7.3 That we contested the issue of notices before the revenue authority thus the case was remand back to the PTA for recon case before the officers of the Authority. The officers of the Authority have neither brought on record our said submission nor discussed nor passed any order in this respect which reflects their mala fides.
- 7.4 The officers of the Authority have stated that M/s LEO's Pakistan (Pvt.) Ltd. being the O&M partner of PTCL activated services from 03-01-2003 therefore if the position is admitted as stated then PTA has rightly passed enforcement order dated 05-10-2011 recovery of Rs. 46,043,950/- against PTCL Thus the issue of recovery is a past and closed transaction.
- 7.5 The para # 4 is flimsy statements based on surmises and conjectures of the Authority. The Authority has admitted the fact that having wrongful loss to M/s LEO's Pakistan (Pvt.) Ltd. by way of forced termination of operation resulted in loss of business as well as market goodwill. PTA 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 notices were issued to the director in person at their personal addresses instead of M/s LEO's Pakistan (Pvt.) Ltd.
- 7.6 That the para # 7.1 of the said order is tainted with mala fides. The Authority has with mala fide intentions concealed M/s LEOs Pakistan's CVAS case submitted 15-09-2007 vide letter No.LEO-09-1012-07 and subsequent M/s LEOs Pakistan's letters dated 28-05-2011, 07-06-2012 etc. VTA 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".
- 7.7 Whether a contract was signed with PTA for any number in use or allocated/assigned to M/s LEO's Pakistan (Pvt.) Ltd. under NAAR-2005? M/s LEO's Pakistan (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 PTCL. PTCL continued charging on a monthly basis. Neither there is any clause that ceases numbering allocation power from PTCL nor M/s LEO's

*Pakistan (Pvt.) Ltd. applied to PTA for any number nor signed any contract with PTA. 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 31st 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 transactions of 30 days under Section 23 of the Act.*

7.8 *The officers of the Authority have altered and modified the section 23 of the Act without jurisdiction by colorable exercise of the executive which is illegal, unconstitutional and ultra vires. The observations in the para under comment are extraneous, unwarranted and superfluous. The observation in the para fails the test of sound legal reasoning and is based on conjectures and surmises. The officers of the Authority had admitted violation of the section 23 of the Act, 1996. It is admitted that PTA issued SCN dated 29-09-2011 and thereafter passed an enforcement order dated 16-08-2012. The said SCN was issued with the conditions i.e. "why the license should not be suspended terminated or any other enforcement order should not be passed against the licensee." And in para 1.8. of the said enforcement order, it was in terms of "a. The license awarded to LEO's Pakistan (Pvt.) Ltd is hereby suspended for period of one month or till the submission of annual audited accounts along with the payment of annual license fee of Rs.4,669,067/-, whichever is earlier. Leo's Pakistan filed an appeal against the said order vide letter dated 13-09-2012 that clarified in detail wrongful calculation of the dues. Had there been calculation at @ 0.5% of annual gross revenue, there would have been no dues against Leo's Pakistan.*

7.9 *PTA allocated 0800-78601 vide letter No. 1-11/05/Engg/PTA dated 03.05.2005. It is on record that said number was not activated by PTCL within a period of one year from the date of allotment. Therefore, it was assumed that the said number would stand withdrawn as PTCL did not take appropriate action upon our letter dated 01.04.2006. Our request in the said matter dated 20-03-2007 submitted vide No. Leos/03/1207 was not also acceded by PTCL. Finally, the said number was activated on 14-10-2008. PTA claim raised vide No. PTA/SERVICES/UAN-FN/2010-2011/ dated 19-07-*

2011 amounting to Rs.11,550/- was paid by way of demand -draft No. PON 217890/-.

- 7.10 The UAN/UIN No. 111-178-601 was disconnected by M/s PTCL vide No. SRO / (G) / Disc. Notice / 2009-10/ dated 17-05-2010 claim amounting to Rs. 144,259/- which was paid and settled accordingly. There is no outstanding of any kind in this account. PTA raised an invalid demand amounting to Rs. 20,480/- vide No. R-UAN/2007-GD/2011-12/ dated 30-03-2012 for a number which was in use of Leo's Pakistan since 17-05-2010
- 7.11. PRS number 0900-786-XX was allocated for Audiotex service by PTCL vide No. MCC/Coord-01/0900 dated 05-11-2002 which was changed 6 digits thus making a block of 1000 numbers i.e. 0900-786-XXX. If such conditions were forcibly imposed upon any licensee without a lawful contract would shatter and scrap its business plan causing total wrongful loss thus such unilateral is against the logic and legal reasoning.
- 7.12 The Authority neither notified transfer of numbering allocation from PTCL as mentioned in the para under comment nor any contract for any number was signed by M/s LEO's Pakistan (Pvt.) Ltd. with PTA. There is no clause mentioned in NAAR-2005 that automatically transfers PTCL allocated numbers to PTA. Any such unilateral change jeopardizes fundamental rights enshrined under Art. 18 of the Constitution. It is on record that M/s LEO's Pakistan (Pvt.) Ltd. did not sign any contract of numbering allocation with PTA. On the contrary, PTCL continued numbering allocation and charging.
- 7.13 That PTA has raised claim against M/S LEO's Pakistan (Pvt.) without proper determination after lapse of several years of the forced closure of our business operation which has caused serious prejudice with us and undue favor to M/s PTCL and M/s Pakistan Mobile Communications Limited (Mobilink). 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 PTA to proceed for recovery if any claim against M/s LEO's Pakistan (Pvt.) Ltd in accordance with law observing due process after the alleged claim has been determined in accordance with enabling provisions of the Companies Act, 2017.

7.14 *M/s PTCL did not pay M/s LEO's Pakistan (Pvt.) Ltd.'s huge share amounting to Rs. 92,316,097/. Pakistan. Mobile Communication Limited (Mobilink) also stopped payment of Rs 1, 2000, 000/= on the basis of license termination. This issue of default of payment by PTCL was raised several times before the Authority' but failed to obtain any relief. The Authority did little more than make a fruitless meeting call on 6<sup>th</sup> May, 2008 despite the Wafaqi Mohtasib's directive to PTCL for the issue of "Non-Payment of revenue share by PTCL to PRS operators*

8. In order to proceed further in the instant matter, the appeal was fixed for hearing on 22<sup>nd</sup> May, 2024. Mr. Shakeel Ahmed Siddiqui and 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.

**9. Findings of the Authority:**

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

9.1.1 While examining the matter, it has been observed that Appellant has contended that it has applied for CVAS license and also deposited ALF in 2007, however, since CVAS license was not granted. For the purpose of clarity it would not be out of context to mention here that the Appellant vide letter dated 28<sup>th</sup> June, 2012 was required to apply afresh for CVAS Registration / License as per proposed services and provide the documents as per check list. However, the same was not provided thus license was not granted. In addition, through enforcement order dated 16-08-2012 the issue of ALF considering the license (Audiotex) was decided by the Authority in 2012 wherein the Appellant was required to make payment of Rs. 4,669,067 which is still outstanding.

9.1.2 On the other hand the Appellant has also pointed out dispute between it and PTCL / Mobilink and requested to take action against them for recovery of dues. In this regard it is clarified that instant matter pertains to recovery of regulatory dues under the terms and condition of license as well as applicable regulations. Therefore, the issue between the Appellant and other companies has no relevance with regard to payment of outstanding dues to the Authority, on the ground that payable dues pertains to license condition and number resource used by the Appellant.

9.1.3 In addition, as far as use of numbering resource is concerned, another reconciliation proceeding were initiated and matter was again taken up with Pakistan Telecommunication Company Limited (PTCL). As a matter of record, it is relevant to point out that PTCL allocated count of PRS Number 100 to the Appellant and 9 PRS numbers were activated in 2003 and 2004. Later on, as a result of cancellation of license w.e.f from 16<sup>th</sup> Sep, 2012, PRS numbers were also cancelled w.e.f. 16<sup>th</sup> September, 2012. After thorough reconciliation process and

seeking record from the Appellant it has been found that out of hundred PRS number only nine numbers on account of PRS from 2003 till 2013 were in operation thus only those numbers are charged i.e., Rs.616500/-. For ready reference status of outstanding dues is given below:

No	Description of issue	Count	Duration	Amount
1.	Premium Rater Service	09 Number	2005 – 2013	616,500
2.	Toll Free Number	01	2005-2016	85,550
3.	Universal Access Number	01	2011-12	0
4.	Annual License fee	-	2006-2011	4,900,892
Total payable dues				5,602,942

9.1.4 After carrying out an extensive exercise of reconciliation and examining of the available record, it has been found that the Appellant is liable to make the payment mentioned at para 9.1.3 above.

## 10. Order:

10.1 Keeping in view the above-mentioned facts coupled with the available record and regulatory legal framework as discussed in the Impugned Order, the Authority could not find any cogent reason and justification to interfere in the Impugned Order. However, as a result of reconciliation as carried out after hearing held on 22<sup>nd</sup> May, 2024, the Appellant is liable to pay outstanding dues of Rs.5,602,942/- on account of Annul License Fee and PRS numbering charges. Accordingly, this appeal is hereby disposed of.

**Maj. Gen. Hafeez U<sup>Y</sup> Rehman (R)**  
Chairman

**Muhammad Naveed**  
Member (Finance)

**Dr. Khawar Siddique Khokhar**  
Member (Compliance & Enforcement)

Signed on 25<sup>th</sup> day of October, 2024 and comprises (08) pages only.

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