

PAKISTAN TELECOMMUNICATION AUTHORITY
HEAD QUARTERS, F-5/1. ISLAMABAD
Tel: 051-9214243 Fax: 051-2878113
www.pta.gov.pk

First Law Company

(Appellant)

Versus

Waqas Ahmed, Deputy Director (Numbering) PTA HQs, Islamabad, etc.

(Respondents)

APPEAL UNDER SECTION 7 (2) OF PAKISTAN TELECOMMUNICATION
(RE-ORGANIZATION) ACT 1996, AGAINST THE LETTER DATED 2ND JULY, 2010
OF THE RESPONDENTS

Date of preferring the Appeal:	28 th July, 2010
Date of hearing :	29 th September, 2010
Venue of hearing :	Conference Room, PTA HQs, Islamabad

The Authority present:

S. Nasrul Karim A. Ghaznavi:	Member (Finance)
Dr. Khawar Siddique Khokhar:	Member (Technical)

The Issue:

‘Non-payment of annual UAN charges under Numbering Allocation &
Administration Regulations, 2005 ’

DECISION OF THE AUTHORITY

Brief facts:

1. First Law Company, being subscriber of Universal Access Number (UAN-111-111515), failed to pay annual numbering charges alongwith late payment charges for the years 2005 to 2010 against the aforesaid number, therefore, the company was reminded vide letter dated 25-05-2010 requiring the company to make payment of Rs.33579/- as per the Numbering Allocation & Administration Regulations, 2005 (the “Numbering Regulations”). In response the company stated that since no demand for previous years were issued, hence, the said demand note is illegal, arbitrary, unjustifiable and excess of authority, hence, requested to withdraw the

said demand note and issue revised demand note after excluding arrears and late payment charges. The aforesaid request of the licensee was regretted vide PTA's letter dated 2nd July, 2010 and it was clarified that according to Numbering Allocation and Administration Regulations, annual numbering charges become due on 30 June each year which are required to be paid by 31st July each year. A penalty of 10% is imposed on late payments received after 31st July and also requested it to make the aforesaid payment.

2. Being aggrieved of the aforesaid direction/order of the officers of the Authority, it filed appeal under section 7(2) of the Pakistan Telecommunication (Re-organization) Act, 1996 which was received in PTA on 28-07-2010 . The memo of the said appeal is reproduced as under:

**“APPEAL UNDER SECTION 7(2) OF PAKISTAN
TELECOMMUNICATION (REORGANIZATION) ACT, 1996
AGAINST THE ORDER DATED 02-07-2010**

1. *That the appellant is a registered law Company, this appeal is being filed through Raja Amir Khan, who is managing partner of the firm and well conversant with the fact of the matter in hand. (Copy of the registration is attached as Annexure-A).*

2. *That brief fact necessitated to file the titled appeal are that appellant is a subscriber of Universal Access Number (UAN). The respondent(s) in pursuance of Number Allocation and Administration Regulation, 2005 through latter dated 25th May 2010 directed the appellant to deposit an amount of **Rs.33579.00** along with arrears/penalty from the year 2005 to 2010 against annual numbering charges through latter dated 25th May 2010. The appellant replied the same by application stated therein that no demand notice was served upon him for depositing the UAN fees and a fair opportunity should be granted to him to explain his case. It was also submitted that notice of previous years was ever issued, therefore, the penalty/late payment charges may also be withdrawn being illegal, unlawful and arbitrary. (Copy of the Demand Notice and Letter are attached as Annexure B & C).*

3. *That respondents without assigning any reason refused to entertain the genuine claim of the appellant vide impugned order/letter dated 02.07.2010. (Copy of latter is attached as Annexure D)*

4. *That appellant feeling aggrieved from the order/letter dated 02-07- 2010 left with no other remedy but to file the titled appeal, Inter alia, on the following;*

GROUND

A. *That the impugned order was passed in an absolute arbitrary and hasty manner and the same is not governed by legal principles.*

B. *That it is the well established principle of natural justice that no one should be condemned unheard and ample opportunity of defense should be given to the concerned person prior to imposing any penalty/arrears but the same was not provided to appellant.*

C. *That respondent No.1 along with respondent No.2 directed the appellant to deposit the required fees along with penalty/arrears without providing any*

opportunity. The appellant/petitioner tried to raise a fair question regarding the non service of demand notice but the same was turned down without any reason by the respondent(s) which is unwarranted and not tenable in law.

D. That the appellant did not committed any sort of illegality as alleged in the notice. That respondent No. 1 and 2 acted in mechanically manners against the appellant which resulted into arbitrary and fanciful order and the same is not sustainable in the eye of law.

E. That respondent(s) did not bother to give any reason for rejection of application. Needless to mention here that that respondent(s) were bound to give reasons under section 24-A of General Clauses Act, 1897 whereas impugned order was based on only one word, no reason whatsoever were given by the respondent(s), which is against the mandatory provision of General Clauses Act, 1897. The valuable rights of the appellant have been put to an end without even providing him an opportunity of defense and in absence of sustainable and liable piece of evidence.

F. That it is pertinent to mention here that the whole record of the appellant with respect to payment of dues is spot less and appellant never committed default in any manner whatsoever.

G. That it is admitted on the record that no notice has ever been served upon the appellant regarding the arrears against the UAN number and the matter in hand involves detailed inquiry but the same was not done in the present case as it was done in a slip shot manner by the respondent(s).

PRAYER

In the light of the above submission, it is requested that the instant appeal may graciously be accepted and the impugned order dated 02.07.2010 by the respondent(s) may kindly be set aside

It is further submitted that during the pendency of the recovery of the charges of the UAN alongwith arrears may kindly be suspended. Any other relief which this authority deems fit may kindly be granted

Note: As per instruction it is first Appeal on the subject matter before this Honorable Tribunal.”

3. Hearing of the Appeal:

3.1. The appeal was fixed for hearing before the Authority on 29th September, 2010 and was communicated to the Appellant vide letter dated 22nd September, 2010. Mr. Faisal Hussain, Advocate, appeared on behalf of the Appellant on the said date and presented the Appellant's case before the Authority.

3.2. During the hearing the representative of the Appellant reiterated the same facts as mentioned in Para 2, above, and further stated that the aforesaid UAN number was issued to him by PTCL. He took the plea that due procedure has not been followed in the instant case. He first should be issued show cause notice and proper opportunity of hearing be provided prior to imposing fine. He further argued that record shows that he has never been issued any demand

notice and one good day he received a letter wherein he was informed that he has not deposited annual numbering charges. He further took the plea that he is not a defaulter and negligence on the part of PTA for not issuing demand notices for the due payments. The Authority clarified to him the charging regime, i.e., (i) service charges to be paid to PTCL, and (ii) annual numbering charges to be paid to PTA as annual regulatory fee for retaining the aforesaid UAN number. The Authority also clarified that due procedure has been followed in the instant case as per the Numbering Allocation and Administration Regulations and that issuance of demand note for annual numbering charges is not mandatory on the Authority rather it is mandatory on the licensee to make the payment of the annual numbering charges for the UAN number before 31st July each year and in case of default he is liable to fine @10% on the outstanding amounts. PTA has reminded him vide letter dated 25th May, 2010 for payment of outstanding payments and vide letter dated 2nd July, it clarified the position and requested him to clear the outstanding dues. The Appellant showed satisfaction to the clarification made by the Authority and stated that he has no objection to the payment. When the Authority confronted him when it is going to make the payment of Rs. 33,579/-, it requested to grant him permission to make the aforesaid outstanding payment in three installments, which was agreed to by the Authority.

4. Finding of the Authority:

(i). Since First Law Company has failed to deposit annual charges for the UAN number since 2005 to 2010, therefore, the officers of the Authority required the company to make the outstanding payment vide letter dated 25th May, 2010. In response the licensee/Company's stance that no demand note ever was served to it, hence, demand of arrears and late payment, being illegal and unlawful, be withdrawn was not accepted by PTA by giving reason/clarification that according to Numbering Allocation & Administration Regulations, 2005 annual number charges become due on 30th June each year which are required to be paid by 31 July each year. A penalty of 10% is imposed on late payments received after 31 July, hence, the officers of the Authority acted within the purview of their job.

(ii). Since the company has requested vide letter dated 21-06-2010 to withdraw the demand note for arrears and late payment charges and to issue revised demand note. The officers of the Authority analysed the matter, regretted the waiver and clarified the position vide letter dated 02-07-2010 in the light of Numbering Allocation and Administration Regulations and requested for making the outstanding payments.

(iii). The aforesaid correspondence/letters are neither proceedings of such nature which require formal hearing nor hearing was demanded.

(iv). The charges are leviable from the date of Gazette Notification of the aforesaid Regulations, hence, non-issuance of demand note may not absolve the company from making payment of the aforesaid liability under regulations. Moreover, ignorance of law is no excuse. It is the responsibility of the licensee/company to be well aware of its obligations, PTA as per its current Policy is reminding the company/licensee to make the payments of outstanding dues alongwith late payment charges @ 10% of the outstanding amount.

(v). Regarding its arguments that (i) the impugned order is passed in an absolute arbitrary and in hasty manner (ii) it is against the principles of natural justice and penalty was imposed without granting opportunity of hearing, (iii) the appellants' fair question of non service of demand notice was turned down without any reason, (iv) the respondents acted in mechanical manner,

hence, passed fanciful order, (v) the respondents has not given reasons for rejection of application, hence, violated section 24-A of General Clauses Act, (vi) no notice was ever served for arrears against UAN number which require inquiry but the matter was done in slipshot manner, are irrelevant to the aforesaid clarificatory letters issued by the officers of the Authority. Since the letters dated 25th May, 2010 and 2nd July, 2010 are requests for reminding the licensee/company to make the payment of the outstanding dues accrued since 2005 till date for using and retaining the UAN number. Prior to withdrawing the aforesaid number under regulation 19 (d) of Numbering Allocation and Administration Regulations, the efforts are being made through the aforesaid letters for payment of outstanding dues and in case of non-payment the aforesaid number can be withdrawn.

(vi). Since the licensee has accepted the liability and agreed to make the payment of outstanding dues in three monthly installments.

5. Decision of the Authority:

5.1. In view of the aforesaid facts and the circumstances mentioned during the hearing and the findings of the Authority, and as the Appellant has accepted the liability and requested to grant permission to make payment in installment, the Authority finds no reason to interfere in the contents of the aforesaid impugned letters, hence, the instant appeal dated 28th July, 2010 filed by the Appellant against the impugned order/letters of the Respondents is dismissed.

5.2. The Appellant is directed to make the payment of Rs.33,579/- for the years 2005 to 2010 including late payment charges @ 10% in three equal monthly installments starting from 15th **January, 2011.**

5.3. In case of failure to abide by Para 5.2, above, the Authority reserves the right take appropriate legal action against the Appellant under the Act which may include withdrawal of aforesaid UAN number under regulation 19(d) of Numbering Allocation and Administration Regulations, 2005 and the payable dues be recovered as arrears of land revenue under section 30 of the Act.

(S. Nasrul Karim Ghaznavi)
Member (Finance)

(Dr. Khawar Siddique Khokhar)
Member (Technical)

6. This order/determination is signed on 11th January, 2011 and comprises o5 pages.