



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 in the matter of My Track (Pvt) Limited

File No. PTA/Finance/VTS/1091/2010

Date of Issuance of Show Cause Notice: 22nd July, 2010
Date of Hearing: 7th October, 2010
Venue of Hearing: PTA HQs, Islamabad

The Authority present:

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

The Issue:

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

DECISION OF THE AUTHORITY

BRIEF FACTS:

My Track (Pvt.) limited (the “licensee”) is awarded non-exclusive CVAS-Data license No.DIR (L)/CVAS-263/PTA/2006 dated 26th May, 2008 by the Pakistan Telecommunication Authority (the “Authority”) to establish, maintain and operate Data Class Value Added Services for providing Vehicle Tracking Services in the province of Punjab on the terms and conditions contained in the license.

2. As a licensee of the Authority, My Track (Pvt.) Limited was required to comply with the provisions of the prevailing regulatory laws comprising the Pakistan Telecommunication Authority (Re-organization) Act 1996 (the “Act”), the Pakistan Telecommunication Rules, 2000 (the “Rules”), the Pakistan Telecommunication Authority (Function & Powers) Regulations, 2006, Class Licensing and Registration Regulations, 2007 and the terms & conditions of the license. Whereas in this case the licensee has violated the condition 3 of the license, sub-regulation (6) and (7) of regulation 23 of the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006, and sub-regulation (1) of regulation 11 of Class licensing and

Registration Regulations, 2007 by not submitting annual audited accounts alongwith annual license fee to the Authority within 120 days from the close of financial year.

3. Pursuant to the abovementioned provisions it failed to submit its annual audited accounts alongwith annual license fee for the year ended on 30th June, 2009 within the due date. In this regard the Authority made various requests to the licensee but in vain. Hence, the Authority issued Show Cause Notice dated 22nd July, 2010 (the "Notice") under section 23 of the Act whereby required the licensee to remedy the contravention by making the aforesaid payments and submission of annual audited accounts and annual license fee for the aforementioned year within seven days and also to 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 passed under section 23 of the Act against the licensee.

4. The licensee submitted its reply to the Notice vide its letter dated 29th July, 2010. In its response to show cause notice, the licensee/ My Track submitted that it was registered in 2007 and obtained CVAS-Data license for VTS services in 2008, but has not yet started any business of vehicle tracking services. It further informed that it has passed resolution in its last Board meeting to transfer its shares to other directors so that they can start the company properly. The change over process of Directors is still in process and will update when it is completed and also committed to pay the dues and requested to intimate the same.

5. Since the reply of the licensee was not satisfactory, therefore, before passing an enforcement order a Hearing Notice dated 30th September, 2010 was issued and served on the licensee whereby informed the licensee to attend the hearing dated 7th October, 2010. However, on the date of hearing no one attended the hearing before the Authority

6. Regulation 46 of the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006, provided as under:

46. Communication with the licensee (1) *The licensee shall maintain on file with the Authority its current address, including telephone number, fax number and email address, and the name and designation of a contact person, for the purposes of receiving communications from the Authority. Any notice or other communication to the licensee permitted under its license or the Regulations may be delivered to it by hand, mail, facsimile or electronic mail addressed to the licensee at its current address(s) available on file with the Authority and any such delivery or communication, as the case may be, if sent on the address referred to above shall be deemed to have been delivered or communicated, as the case may be, to the licensee.*

(2) *Any change in address, telephone numbers, fax numbers or contact person as referred in sub-regulation (1) shall be communicated to the Authority within seven (7) days of such change.*

7. Since the show cause notice and hearing notice have been served at the address given and maintained by the licensee with the Authority, hence, are deemed to be delivered and communicated to the licensee. The show cause notice was duly responded by the licensee, but it failed to attend the hearing on 7th October, 2010 despite service of hearing notice, therefore, the Authority has no option but to decide the matter in the absence of the licensee, on the basis of available record.

(a). The licensee was obliged under condition 3 of the license, regulation 11 (1) of Class licensing and Registration Regulations, 2007 and sub-regulations (6) and (7) of regulation 23 of the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006, to submit annual audited accounts within three months and to pay annual license fee to the Authority within 120 days from the close of financial year which licensee failed to comply.

(b) The Authority has been making repeated requests to the licensee vide its various letters including dated 26th October, 2009, 16th November, 2009 and 25th January, 2010 requiring the licensee to submit annual audited accounts alongwith annual license fee for the year 2009, but the licensee neither deposited the Authority's dues nor submitted annual audited accounts for the aforesaid period which constitute sheer disregard to the writ of the Authority. The licensee also failed to attend the hearing on 7th October, 2010.

(c). Foregoing clearly shows that the licensee is not complying with the directions of the Authority. The hearing notice has been served on the address of the licensee that is available in the record but neither the licensee nor any of its representatives attended the hearing establishing an irresponsible attitude of the licensee towards the writ of the Authority.

(d). Transfer of shareholding or change in management or control of the licensee is regulated under rule 11 of Pakistan Telecommunication Rules, 2000 and regulation 23 of the Pakistan Telecommunication Regulations, 2006 which require for giving prior written notice alongwith complete details to the Authority, otherwise it amounts to contravention of the aforesaid provisions which may call for afresh action under section 23 of the Act.

(e). The payable annual license fee is calculated on the basis of revenue shown in the annual audited accounts of the licensee and in the absence of the aforesaid audited accounts, the payable fee cannot be calculated.

7. ORDER

8.1. Keeping in view the above mentioned facts coupled with the available record, the Authority hereby decides to proceed in the absence of the licensee by passing the following enforcement order:

- (a) The license of **My Track (Pvt.) Limited** is hereby SUSPENDED for a period of One Month or till submitting of the annual audited accounts alongwith annual license fee including late payment charges (@ 2% per month or part thereof) for the year ended on 30th June, 2009, whichever is earlier.
- (b). In case of non-compliance of Para 8.1 (a) above, license No DIR (L)/CVAS-263/PTA/2008 dated 26th May, 2008 of the company shall stand TERMINATED w.e.f. 3rd December, 2010 without further notice and recovery proceedings under section 30 of the Act shall be initiated by the Authority against the company for recovery of all payable dues as arrears of land revenue. While in case of payment as per 8.1(a), the license shall be restored.
- (c). PTCL is directed to forthwith terminate all telecommunication facilities extended to the licensee pursuant to the license till further orders of the Authority.

(S. Nasrul Karim A. Ghaznavi)
Member (Finance)

(Dr. Khawar Siddique Khokhar)
Member (Technical)

8. This determination signed on 03-11-2010 and comprises 04 pages.