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No 24-1/2016/LFP-I
Government of India
Ministry of Communications & IT
Department of Telecommunications
(LF-Policy wing)
Sanchar Bhawan, New Delhi-110001

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Dated: 01.06.2016

To

-All Pr./CsCA

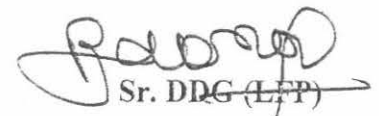
Sub: Clarification on issues relating to AGR and Bank Guarantees of Telecom licenses.

Of late this office has received numerous correspondences from Pr./CsCA offices seeking clarifications on various issues related to AGR and Bank Guarantees of telecom licenses. The matter has been examined and following clarifications/instructions are being issued:

1. **Whether Misc. revenue/reversal of expenses/excess provision to be included in the AGR:** As per the license agreement, misc. revenue should form part of the AGR but reversal of expenses and excess provision should not be included in AGR.
2. **Bad debts recovered:** It has been the consistent stand of the department that bad debts recovered should not form the part of AGR.
3. **Whether income from interest to be included in AGR:** Income from interest would be included in AGR.
4. **Whether revenue from non-telecom activities is to be considered for AGR calculation:** As per license agreements, the revenue from non-telecom activities would form part of the AGR.
5. **Non submission of documents by the licensee:** Appropriate actions may be taken by the Pr.CsCA/CsCA as per a license agreement which includes the encashment of FBG/PBG for non-fulfilment of license conditions and damage caused to the licensor.
6. **No response on the correspondence made by the Pr.CsCA with the licensee:** Appropriate actions may be taken by the Pr.CsCA/CsCA as per a license agreement which includes the encashment of FBG/PBG for non-fulfilment of license conditions and damage caused to the licensor.
7. **Whether CCAs to receive quarterly AGR/LF/Annual documents and assess the LF even after encashment of FBG:** The CsCA may receive quarterly AGR/LF/Annual documents and assess the LF till the effective date for surrender/termination of the license agreement.
8. **Disposal of representations made by Licensee:** The representations should be heard by the CsCA offices only.
9. **Whether FBG is to be encashed if licensee fails to pay license fee against demand notice:** The Bank Guarantees may be encashed if licensee fails to pay license fee against demand notice.
10. **Review of the FBG in cases of non start of operations:** The same amount of FBG would be maintained as submitted by the licensee during signing of the license agreement.

11. **Request of licensees for waiver of Interest on delayed payments and penalty and interest on penalty:** No such waiver is allowed as per license agreement.
12. **FBG for pure ISPs:** Since, as of now, there is no AGR definition is available on the basis of which license fee demand could be ascertained, therefore the question of FBG may not arise in cases of pure ISPs.
13. **Whether PBG can be encashed if licensee fails to pay LF demand notice or fails to submit required documents etc. in case of non-availability of FBG:** Yes, the PBG may be encashed.
14. **Non submission of fresh PBG/FBG in lieu of encashed BGs:** Matter may be referred to DoT HQTR by the CsCA offices along with its recommendations.
15. **Adjustment of surplus amount in the Quarter-1 of the next financial year:** The subject matter is under consideration and the necessary clarifications will be issued very shortly.
16. **Whether ISP may claim deduction for the payment made to other service providers for leased line purchase:** The subject matter is under consideration and the necessary clarifications will be issued very shortly.
17. **Presumptive AGR:** DoT headquarter is considering the applicability of the presumptive AGR for the calculation of license fee on the auction conducted in 2014 and 2015 as per NIA 2014 and 2015. However, till the time of final decision in the matter, the license fee may be calculated by the O/o CCA on the basis of entry fee or actual AGR, whichever is higher.
18. **Applicability of Uniform license fee on the Pure ISPs:** It is a fact that the para 2 of the letter dated 29.06.2012 of the DoT on the application of uniform license fee had been struck down by the TDSAT. The decision of the TDSAT had been accepted by the department and accordingly the DoT headquarter is in the process of taking a final decision on the applicability of Uniform License fee on the Pure ISPs. However, till the time of final decision in the matter, the status quo may be maintained by the O/o CCA regarding the calculation of license fee for the pure ISPs.

It is our endeavour to empower/enrich the field offices. Therefore, it is suggested that we should make the dedicated effort to provide the necessary skills to officers through the targeted training module keeping in view the practicality of the verification/assessment as well as the requirement for proper monitoring of the financial clauses of license agreement. While there are material/human resource constraints in headquarter but we are always ready to solve the problem of the CsCA as soon as possible. Hence it is urged that your proactive approach is the need of the hour to realize the actual potential of the field offices. It is felt that there cannot be readymade answer to every query. CCAs are competent and skilled enough to interpret and understand the terms and conditions of the license agreement and clarifications. If, you all can take it in proactive and rightful manner, lot of correspondence with the Headquarter could be avoided.


Sr. DDG (LFP)

Copy to:-

1. DDG (WPF)/ DDG (LFA), DoT (HQ).
2. Director (LFP-II)/Director (LFA-I, II & III)