

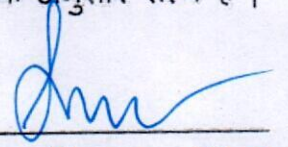
Department of Telecommunications
(दूरसंचार विभाग)
Information Technology Cell
(सूचना प्रौद्योगिकी प्रकोष्ठ)

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Dated (दिनांक)	<u>17 May 2022</u>	
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Government of India
Ministry of Communications
Department of Telecommunications
(LFA Branch)
Sanchar Bhawan, 20, Ashoka Road,
New Delhi-1

No.1-28/2013/LFA-II (Pt.)

Date-23.03.2021

To
Jt. Controller General of Communication Accounts
All Pr /Controller of Communication Accounts

Sub: Implementation of DoT Guidelines/Clarifications towards the deduction verification exercise.

Ref: DoT Letter No.1-10/2019/LFA/SCI dated 03.02.2020 and COAI Letter No DG/COAI/2021/012 dated January 15, 2021.

In reference to the DVR guidelines issued by DoT HQ, the undersigned is directed to inform that,

- i The DVR guidelines dated 03.02.2020 were issued in order to bring clarity and uniformity in the process of DVR verification.
- ii DoT with the approval the Union Cabinet filed M.A. Diary no 9887/2020 before the Hon'ble Supreme Court wherein dues of certain TSPs were annexed to the Misc. Application.
- iii The Hon'ble Supreme Court vide its order dated 18.3.2020 ordered inter alia that,

"no exercise of self-assessment/re-assessment to be done and the dues which were placed before us have to be paid as we have affirmed those dues including interest and penalty, as ordered in the judgment."

Subsequently vide order dated 20.07.2020, Hon'ble Supreme Court further ordered that,

"The calculations which have been given and the amount to be recovered at pages 180-181 of M.A.D. No. 9887 of 2020 (application for modification) in C.A No. 6328-6399 of 2015 are taken to be as final amount and there can be no dispute raised about it. No recalculation and self-assessment can be undertaken."

The same was reiterated by Hon'ble Supreme Court in its Judgment dated 01.09.2020.

- iv Therefore, the dues placed before Hon'ble Supreme Court (Annex-I) have attained finality through the orders dated 18.03.2020, 20.07.2020 & 01.09.20; and no exercise of re-assessment /re-calculation is to be carried out.
- v However, the DVR guidelines dated 03.02.2020 may be used for DVR verification for the years/circles/Licenses for which dues have not been finalized by the Hon'ble Supreme Court till F.Y. 2016-17 and for all Licenses post F.Y. 2016-17.

Encl: As above


23/03/2021
(Bhavesh Anil Sharma)
ACAO (LFA-II)
Phone No. 011-23036015

Copy to:

1. PS to Member (F)
2. PS to Controller General of Communication Accounts
3. PPS to Advisor (F)
4. DDG (LFA)/DDG (LFP)/DDG (WPF)
5. DG, COAI
6. All Access Service Operators

GUIDELINES/CLARIFICATIONS FOR DEDUCTION CLAIM VERIFICATION

Sr No	Issue	Guideline/Clarification
1	Non Sharing of Objection Report and Speaking Order with TSP with 15 days time for representation.	<p>CCAs have previously been directed to give Speaking and Reasoned Orders in respect of disallowed deductions, through letters dated 01.11.12 & 26.09.13. The same has been reiterated and amply clarified in Order dated 14.12.15, wherein it is clearly mentioned that detailed reasons for invoice disallowance must be given to TSPs in the Speaking Order.</p> <p>It is reiterated that the Speaking Orders must contain the invoice wise reason for disallowance and must be communicated to the TSP along with 15 day opportunity for representation, in all cases for all years where the same has not been done.</p> <p>In such cases where the Speaking order with invoice wise reasons for disallowance have not been received by TSPs, TSPs are advised to approach the respective CCAs within 15 days of receipt of these guidelines by the TSP and the same should be effected by CCAs during this one time re-opening of DVRs as directed through Pt 1 above. Relevant DVRs should be revised to this effect, if required.</p> <p>Further CCAs are directed to ensure that for all DVRs sent to DoT HQs for all years, the Deduction Claimed/Disallowed amount is the same as finally communicated to TSP. In cases where there is a discrepancy in the figures of Deduction Claimed/Disallowed between the DVR communicated to DoT HQ vis a vis Speaking Order shared with TSPs, the same may be reconciled and communicated to both DoT HQ and TSP</p>
2	Deductions have been restricted to lower of cash or accrual claims. Further In some cases the audited AGR with cash deductions may not be available.	<p>In case any CCA has submitted DVRs of any year with deduction claimed figures on accrual basis, they are directed to revise and resubmit the DVRs with deduction</p>

		claimed figures on actually paid basis.
3	Simplification of TDS Certificate Process	In cases where there has been TDS disallowances due to non submission of documents prescribed as per the extant order, as an alternative to already prescribed documents, the licensee may submit a certificate by Statutory auditor/Tax auditor that the quarterly TDS amount have been correctly shown in claim sheets and exclude any interest/penalty (for delayed payment etc) and have actually been deposited in to government accounts as per provisions of the Income Tax Act, 1961. The certificate shall contain quarter wise TDS figures for PSTN and Roaming separately. CCAs should consider the same certificate as sufficient proof for verification of TDS claim. This provision shall apply for the one-time re-opening of DVRs as directed by this letter and any previous disallowances of TDS amounts on the basis of extant orders should be allowed subject to valid Statutory/Tax Auditor Certificate. Also, as already clarified in Clarifications dated 09.03.2015, if TSPs fail to substantiate TDS claims, then only TDS related amount should be disallowed, and not the whole invoice amount. Relevant DVRs may be revised accordingly.
4	Disallowance of 3G Intra Circle Roaming Pass Through Charges	In some cases, it is observed that while deduction for 3G ICR has been allowed following DOT circular dated 01.02.2017, it has been restricted to actual usages. It is directed that 3G ICR claims, including the minimum commitment/ premium usage charges, are admissible deduction, subject to submission of supporting documents (concerned invoice and bank statements). Relevant DVRs to be revised accordingly
5	Disallowance of J&K GST paid under Amnesty scheme	CCA, J&K had disallowed GST paid amount claimed in AGR statement. Since the Revenue is shown at Gross Value including GST, it is essential to allow deduction of GST to arrive at the AGR (in case of other circles also which were in service tax regime, the relevant revenue is net of service tax). Accordingly, deductions for the same may be allowed subject to submission of challans, along with a self certification that the amount has been paid. Relevant DVRs to be revised accordingly

6	<p>Emergency Call Charges Paid to BSNL /Hubbing charges</p> <p>These Charges are paid as Interconnect Charges for Emergency Services and should be considered as allowable access charges, including the fixed/minimum commitment component. The same was also being allowed before order dated 21.10.2013. Relevant DVRs to be revised accordingly.</p> <p>CCA are directed to follow guidelines (S.No.13) as per order dated 09.03.2015, and revise prior DVRs in case there have been disallowances due to not following this Order.</p> <p>ADC/SMS charges have also been settled at Corporate level amongst companies. These should also be considered within the scope of clarification at S.No. 13 of Order dated 09.03.2015.</p>
7	<p>Corporate Settlements</p> <p>Relevant DVRs to be revised accordingly</p>
8	<p>Short/Excess payment of other TSPs with discrepancy between invoice amount and passed amount or payment mismatches between net amount payable/receivable and net amount paid/received.</p> <p>It is observed that sometimes the cost/revenue invoice gets passed by TSP/other TSP by an amount less than the invoice's original amount. This will result in a mismatch between Net amount payable/receivable vis a vis Net paid/received in the Bank Statement. If the TSP furnishes the IUC passed/received amount(s) in the Claim Sheet (in the designated Column or by way of providing suitable explanatory remarks), such submission may be considered and allowed to the extent of IUC passed amount.</p> <p>Further, due to bank charges, the net receivable/payable amount may vary from the net received/paid amount as appearing in Bank Statement. If the TSP submits, while explaining the mismatch, that the reason for variance is Bank Charges, such submission may be considered by CCAs.</p> <p>Relevant DVRs to be revised accordingly</p>
9	<p>Disallowance of intra company transactions Provisional/Reversal invoices with</p> <p>The amount booked in GL extract on basis of Provisional/ Reversal /Actual invoices shall be considered as admissible deduction, provided that necessary supporting documents have been submitted and verified on basis of Provisional/Reversal invoices and GL Extract duly certified by Auditor.</p>

<p>10</p>	<p>Disallowance of IUC charges paid to TSPs who have now closed their operations and the operator has the invoices (both cost and revenue) but the net transaction has not been settled and hence is not visible in the Bank statement. The operator has also claimed the same in relevant Claim Sheets. If the operator is in net receivable position in this case, even the payable passed charges are disallowed since the net receivable amount was not paid by the other operator.</p>	<p>The IUC cost actually passed through to the closed operator related to this transaction may be allowed subject to :</p> <ol style="list-style-type: none"> a. Submission and verification of relevant party ledger (books of accounts) showing invoice number, invoice value and IUC cost actually passed/received of relevant transactions with the closed TSP, b. Verification of invoices and c. Auditor Certification of invoice wise IUC cost actually passed through to relevant closed operator. <p>Provided, these transactions should have been originally claimed in the relevant year. No new such transactions should be admitted and considered.</p>
<p>11</p>	<p>Payments made in quarter different from quarter of claim</p>	<p>CCA are directed to follow guidelines at S.No.11 of order dated 09.03.2015, and revise prior DVRs in case there have been disallowances in contravention of this order. Thus, it is reiterated that if the documents are otherwise available to prove the actual settlement of transaction on paid basis, deduction should not be disallowed merely on the ground that transaction has been settled on paid basis in any previous quarter than the quarter in which it was claimed.</p> <p>However, it is stated that Annual Deduction Disallowed should not be negative i.e. the total deduction allowed in any financial year shall not exceed the total deduction claimed on paid basis as per Audited AGR Statement.</p> <p>Further, in case of cheque payment, it is reiterated that, as per Order dated 05.07.2007, date of receipt of cheque by the operator/other operator shall be considered to be the date of actual payment. The acknowledgement obtained from other operator may be submitted by the operator as proof of date of actual settlement.</p> <p>Relevant DVRs to be revised accordingly</p>

12	Disallowance for amount paid / settled by the Access License to ILLD license on the grounds that ILLD pass through charges are not allowed.	No such rationale exists. Any such disallowances on this ground may be allowed, subject to verification of invoice and payment proofs. Relevant DVRs to be revised accordingly.
13	Promotional and Transactional Charges	As per Order dated 04.03.14, SCCP charges as well as Toll free no. charges are admissible deductions. The order is reiterated and CCAs are directed to revise any such disallowances, subject to verification of invoice and payment proofs. Relevant DVRs to be revised accordingly
14	Supplementary Invoices	Any supplementary invoice for pass through charges pertaining to BSNL should be allowed subject to verification of invoices and payment proofs, provided that they have been claimed earlier in the Audited AGR of the year of supplementary invoice. Relevant DVRs to be revised accordingly

		<p>In case of disallowances of pass through (PSTN + Roaming) charges due to non-submission of Bank Statement / bankers certificate prescribed as per the extant orders (09.03.2015 & 21.04.2017), CCA may accept the following:-</p> <p>Complete Bank statement (with running page numbers and logo) signed by concerned bank authority on 1st Page and Last Page with mapping of relevant transactions with Claim Sheet</p> <p>OR</p> <p>- Relevant pages of the bank statement showing relevant payments signed by bank authorities.</p> <p>OR</p> <p>- Bankers certificate certifying the relevant transactions of entire Quarterly AO statements.</p> <p>In case the bank statement does not contain payee name, licensee will have to additionally submit:</p> <ul style="list-style-type: none"> - Bankers certificate indicating the name of payee for the transactions OR - Extracts of relevant transactions with operator generated from books of accounts OR - Acknowledgement of relevant transaction obtained from the other operator <p>The above documents shall be signed and sealed by the Authorized signatory of the Company Officials (all pages).</p> <p>Relevant DVRs to be revised accordingly</p>
15	Bank Statement	
16	Requirement of Annexure-AO/AG or Annexure-A	<p>As per Order dated 28.06.2013, Auditor certified Proforma at Annexure-A of the Order was prescribed. However from FY 2014-15 Auditor certified Annexure-AO/AG/PP came to be prescribed. Accordingly it is directed that CCAs may accept either Auditor certified Annexure-AO/AG/PP OR Auditor certified Proforma at Annexure-A of Order dated 28.06.2013 for any FY upto and including FY 2014-15.</p> <p>Relevant DVRs to be revised accordingly</p>
17	National Roaming disallowance due to the invoices bearing SDR Value.	<p>CCAs are directed to allow the same subject to due process of verification of requisite documents as per extant orders, provided the concerned Invoices also have values quoted in INR. Relevant DVRs to be revised accordingly.</p>

18	Change in Operator Names	CCAs to consider change in name of Operators based on submission of CIN (Certificate of Incorporation). Any such disallowances may be accordingly considered and relevant DVRs to be revised accordingly
19	<p>International Roaming calls/SMS - In cases of Seamless Roaming Agreement, all IR transactions are being settled with 7 Nodal Circles, and these Nodal circles are further settling with Non-Nodal circles through book adjustment reflected in AG Statement</p> <p>Disallowance of ACS(Audio Conference Service) Intra-company Transaction:</p> <p>It has been submitted that the enterprise division of the Company manages the business of ACS. As such the costs are getting recorded separately at the Head Office level. This is leading to gap between the AG and the GL extract, since the GL extract for the circle does not contain these transactions. It has been submitted by the TSP that this separate booking of cost related to ACS is for their administrative purposes to manage this stream of business.</p>	<p>In case of (Seamless roaming Services) SRS arrangement for both calls and SMS - International roaming transactions in non nodal circles should be allowed based on verification of Audited Annexure-AG and relevant debit note / credit note rather than IR statement. Any such disallowances may be accordingly considered and relevant DVRs to be revised accordingly</p>
20	<p>Disallowance of ACS(Audio Conference Service) Intra-company Transaction:</p> <p>It has been submitted that the enterprise division of the Company manages the business of ACS. As such the costs are getting recorded separately at the Head Office level. This is leading to gap between the AG and the GL extract, since the GL extract for the circle does not contain these transactions. It has been submitted by the TSP that this separate booking of cost related to ACS is for their administrative purposes to manage this stream of business.</p>	<p>These transactions may be allowed subject to auditor certification of the pass through charge, provided they have already been claimed in relevant year in prescribed claim sheet and invoices and payment proofs have been submitted.</p> <p>Relevant DVRs to be revised accordingly</p>
21	<p>Payment of Service Tax in FY 2006-07 to 2009-10 (pertains only to TATA)</p>	<p>In circles where the service tax has been disallowed, deduction should be allowed on basis of certificate from Statutory/Tax Auditor that the amount has been paid to Government of India and the same has not been claimed as deduction in any other circle/year. It should clearly state the year wise amount which should tally with the total ST claim.</p> <p>Relevant DVRs to be revised accordingly</p>

22	Company name on Invoice/Bank statement is different from the Claim Sheet, although they are of same Group Company	<p>Provided that:</p> <p>A. All the companies mentioned are of the same group</p> <p>AND</p> <p>B. the company name on the Invoice and Bank Statement/Bank Certificate are the one and same</p> <p>the Claimed deduction may be allowed subject to submission and verification of invoice and payment proof.</p> <p>Relevant DVRs to be revised accordingly.</p>
23	Disallowance of Invoice not having Minutes of Usage and Rate	<p>Amount may be allowed subject to submission and verification of invoice and payment proof.</p> <p>Relevant DVRs to be revised accordingly.</p>