



2026:DHC:629-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 23 January, 2026

Uploaded on: 27 January, 2026

+ **FAO(OS) (COMM) 15/2026 & CM APPL. 5088/2026**

RI NETWORKS PRIVATE LIMITEDAppellant

Through: Mr. Tanmaya Mehta, Mr. Karan
Nagrath, Advs.

versus

WORLD PHONE INTERNET SERVICES PRIVATE LIMITED &
ORS.Respondents

Through: Mr. Aditya Vaibhav Singh, Adv. for
R-1 to 4.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed by the Appellant-RI Networks Private Limited under Section 13 of the Commercial Courts Act, 2015 read with Section 104 read with Order XLIII Rule 1 of the Code Of Civil Procedure, 1908, *inter alia*, assailing the order dated 17th December, 2025 (hereinafter, '*impugned order*') passed by the Id. Single Judge of this Court in ***CS (Comm.) No. 1196 of 2025*** titled '***RI Networks Private Limited Vs World Phone Internet Services Private Limited & Ors.***'
3. *Vide* the impugned order, the application filed by the Appellant seeking



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refund of Court fee has been rejected.

4. The brief background of the present case is that the Appellant had filed a suit on the Original Side of this Court seeking recovery of outstanding dues, damages and for grant of mandatory and permanent injunction.

5. The said suit was filed against five Defendants *i.e.*, the Respondents herein. *Vide* a detailed judgment passed by the Id. Single Judge of this Court dated 14th November, 2025, the plaint filed by the Appellant was rejected in the following terms:

“35. There is, therefore, no separate or independent cause of action qua a non-service provider that would warrant ouster of TDSATAT’s jurisdiction under Section 14 of the TRAI Act. To that extent, while the judgement of Association of Unified Telecom Service Providers of India etc.. cannot be doubted, it is not found relevant to the instant dispute.

*36. The second argument of Mr. Mehta pertains to subject-matter bar. It is submitted by him that the instant dispute cannot be adjudicated upon by the TDSATAT owing to the subject-matter of the instant dispute. For this argument, reliance was placed on the decisions of the TDSATAT in **Amrit Aneja** and **Hathway Digital Pvt. Ltd.***

*37. In **Amrit Aneja**, the TDSATAT found that it did not have jurisdiction to adjudicate upon a dispute between a master and servant. The petitioner therein was, further, not a service provider, licensor, licensee, or a group of consumers, as is required by Section 14 of the TRAI Act. The judgement is, therefore, distinguishable on facts. Similarly, in **Hathway Digital Pvt. Ltd.**, paragraph no. 12 of the judgement narrates that the primary respondents had not been sued in their capacity of service providers, and resultantly the petition was not found maintainable. This judgement also is distinguishable on facts.*



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38. From the discussion above, it can be safely concluded that the dispute in the instant case originating from the OMA between the plaintiff and the defendant no. 1, both being service providers, and further affecting a substantial number of customers/subscribers is to fall for the exclusive adjudication of the TDSATAT under Section 14 read with Section 15 of the TRAI Act.

39. The present commercial suit is, therefore, to be adjudicated by the TDSATAT under the provisions of the TRAI Act. The instant suit is barred by law and the plaint deserves to be rejected.

40. Ordered accordingly. Pending applications also stand disposed of.”

6. The crux of the above judgment is that the Plaintiff *i.e.*, the Appellant herein and the Defendant No.1 *i.e.*, Respondent No. 1 herein, being service providers in terms of the Telecom Regulatory Authority of India Act, 1997 (hereinafter, '*TRAI Act*'), the appropriate forum for the Appellant to approach in respect of any disputes with another service provider was the Telecom Disputes Settlement and Appellate Tribunal (hereinafter, '*TDSAT*')

7. The plaint filed by the Appellant was valued at Rs. 8,84,28,221/- and Court fee of Rs. 8,70,000/- was deposited. Since the plaint was rejected on the first day of hearing itself and the Appellant was relegated to the TDSAT, an application was filed by the Appellant seeking refund of Court fee under Section 151 of the Code of Civil Procedure, 1908 (hereinafter, '*CPC*'). In the said application the following order was passed on 17th December, 2025.

“1. Having considered the submission made by Mr. Tanmaya Mehta, learned counsel appearing for the plaintiff, who while placing reliance on an order dated 28.03.2025 passed by this Court, tries to impress upon the Court that the order dated 14.11.2025 passed in the

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present case be treated to have been passed in exercise of power under Order VII Rule 10 of the Code of Civil Procedure, 1908 ['CPC'], and, therefore, the Court fee paid by the plaintiff be refunded.

2. The Court, however, is of the considered opinion that the order dated 14.11.2025 was passed in exercise of powers under Order VII Rule 11 of CPC after a comprehensive and thorough analysis of the issues involved therein. It cannot, therefore, be treated to be an order under Order VII Rule 10 of the CPC. Under the facts of the present case, the refund of the court fees is not warranted.

3. The application stands dismissed.”

In terms of the above order, the prayer for refund of court fee was rejected.

8. Mr. Mehta, Id. Counsel for the Appellant submits that the nature of the judgment dated 14th November, 2025 is one under Order VII Rule 10 of the CPC *i.e.*, that the plaint has been rejected and the Court fee, therefore, deserves to be refunded. Without prejudice, Id. Counsel further submits that even if the rejection of the plaint is taken to be under Order VII Rule 11 of the CPC, even then the Court fee would be liable to be refunded in as much as the Appellant has been nearly relegated to approach TDSAT and there has been no adjudication on merits.

9. Reliance is placed upon the following decisions by the Id. Counsel for the Appellant:

- ***Dr (col.) Subhash Chandra Talwar Vs. T. Choitram And Sons and Ors., MANU/SCOR/41200/2019***
- ***Amit Jain v. Mahavir International Pvt. Ltd. & Ors., 2023:DHC:3090-DB***
- Order dated 28th March, 2025 in ***CS (Comm) 122/2020*** titled ***Beoworld***



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Private Limited v. Bang & Olufsen Expansion.

10. The Respondent Nos. 1 to 4 are represented by Mr. Aditya Vaibhav Singh, Id. Counsel. Insofar as the Respondent No.5 is concerned, Id. Counsel submits that he does not have instructions.

11. Be that as it may, Respondent No.5 is the holding company of Respondent No. 1 as per Mr. Mehta, Id. Counsel for the Appellant.

12. Mr. Aditya Vaibhav Singh, Id. Counsel submits that the judgment dated 14th November, 2025 clearly gives a finding that there is no independent cause of action against the non-service providers i.e., Respondents 2-5. Id. Counsel further submits that there is an adjudication on the merits in the said judgment. Moreover, Id. Counsel urges that the appeal against this judgment has already been dismissed as withdrawn, therefore, he submits that the judgment dated 14th November, 2025 should not in any manner be disturbed.

13. Id. Counsel for the Respondents further submits that insofar as refund of Court fee is concerned, the issue is between the Court and the Appellant.

14. The Court has considered the matter. The admitted facts are that the suit of the Appellant has been rejected on the ground that the same is barred by law and the Appellant has been relegated to approach the TDSAT.

15. In the opinion of this Court, Id. Single Judge of this Court has not considered the merits of the dispute between the parties in the judgment dated 14th November, 2025. The order is one of rejection of plaint to enable the Plaintiff to avail the alternate remedy.

16. Insofar as the rejection of the plaint and refund of the Court fee is concerned, irrespective of whether the judgement dated 14th November, 2025 is to be considered one under Order VII Rule 10 of the CPC or Order VII Rule



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11 of the CPC, the Court fee can be refunded by the Court.

17. The Supreme Court in ***Dr (col.) Subhash Chandra Talwar (Supra)*** refunded the Court fee where there was a rejection under Order VII Rule 11 of the CPC. The said order reads as under:

“The petitioner herein filed a suit for damages. The defendants filed a petition before the High Court under Order VII Rule 11 praying for dismissal of the suit on the ground of Jurisdiction. That plea was accepted by the learned Single Judge.

On a review petition being filed, the learned Single Judge modified the order and rejection of the plaint was directed as against dismissal of the suit as ordered earlier.

The appeal filed by the petitioner was dismissed. However, the plaint was ordered to be returned with liberty to file it before the court of competent jurisdiction.

Thereafter, the petitioner filed an application for refund of the court fees. This application has been rejected only on the ground that the appeal has been disposed of on merits. We are unable to agree with the High Court. What has been disposed of is only the rejection order under Order VII Rule 10 of the Code of Civil Procedure. This is no order on the merits of the suit. The effect is that the plaint has been ordered to be returned to be filed in the appropriate Court. Therefore, the petitioner was entitled to refund of the court fees so that he can fix the court fee in the State where he would like to file the suit. We therefore set aside the order of the High Court and direct that the entire court fees be refunded to the petitioner. The special leave petition is disposed of accordingly. Pending application(s), if any, stands disposed of.”

18. In ***Amit Jain (Supra)***, a Co-ordinate Bench of this Court has set out the

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entire rationale that a litigant cannot be discouraged from approaching the justice dispensation system. The observations of the Co-ordinate Bench of this Court are relevant and are set out below:

“8. In the overall facts and circumstances of this case, throttling this appeal at its inception would be complete miscarriage of justice. We find no reason to hold that this appeal is not maintainable in the eyes of law.

9. Coming to the other aspect, the question as to whether a money recovery suit should be filed before a commercial court or a ordinary civil court is too intricate a question of law to be fathomed by a lay person. The litigant in regard to such decisions goes completely by the advice of her counsel. Where a counsel in her wisdom arrives at a particular view on any point of law and acts accordingly, but subsequently feels not confident to proceed further, the litigant ought not to be punished monetarily.

10. It is trite that while interpreting a fiscal legislation like Court Fees Act, the court should adopt liberal attitude so as to lessen and not add to the burden of the litigant. Especially where the court dealing with the lis is of the view that it is not competent to decide the same, there is no logic in depriving the litigant refund of the court fees.

11. In the case of Nagpur District Central Cooperative Bank (supra) relied upon by learned counsel for appellant, in a similar situation, a Division Bench of the Bombay High Court, while referring to various judicial precedents including the decision of its Full Bench, took a view that where the court fees on the institution of a suit has been paid in a court which cannot possibly afford the relief sought, it does not seem consistent with sound principle that the plaintiff should be condemned to lose the fees thus paid, or that he should not be allowed to ask without paying a second fee for an adjudication from a court which can really give one.



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12. Such refusal to refund court fees even in a lis which remained unadjudicated and expecting the litigant to pay up again would discourage the law-abiding litigant from approaching the justice dispensation system. Such a form of docket exclusion would be highly counterproductive for any civilized society.

13. In the present case, the fact remains that at the initial stage itself, on being pointed out the jurisdictional infirmity, the appellant fairly conceded and moved the application dated 05.11.2022 seeking permission to withdraw the suit with liberty to file fresh suit, the lis remains unsolved. **There having been no formal adjudication of the dispute brought by the appellant before the trial court, we are of the opinion, that it would be too onerous on the appellant to make him pay court fees afresh.**

14. In view of above discussion, we are unable to uphold the impugned order to the extent it rejects the prayer of the appellant for return/refund of the court fees and to that extent, the impugned order is set aside. Accordingly, the appeal is allowed.

15. A copy of this judgment be sent to the learned trial court and appeal file be consigned to records leaving the parties bear their own costs.

19. This Court in fact, agrees with the rationale in ***Amit Jain (Supra)*** in as much as the Appellant has now been relegated to TDSAT and has to now follow the procedure before the TDSAT and incur the legal costs before the said forum, including that of court fee, for adjudication of the dispute.

20. Court fee is not meant as a penalty upon the litigant to approach the Court. The Court is to always take an empathetic view towards a litigant especially when a litigant has been relegated to approach the appropriate forum and there has admittedly been no adjudication on the merits of the dispute.



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21. In the present case, the suit has been heard on the first date itself, as informed by the Id. Counsel and the plaint was rejected. The Plaintiff therein was then relegated to TDSAT. Under these circumstances, in the facts of this case the Court is of the view that the Court fee deserves to be refunded. Accordingly, the impugned order dated 17th December, 2025 is set aside.

21. The Court fee shall be refunded to the Appellant within 8 weeks, either through Appellant in-person or through its Counsel.

22. The appeal is disposed of in above terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

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JUDGE

JANUARY 23, 2026

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