

WPF/1018/DWC/ Comm. VSAT/09-10
MINISTRY OF COMMUNICATIONS & IT
DEPARTMENT OF TELECOMMUNICATIONS
SANCHAR BHAWAN, 20 ASHOK ROAD, NEW DELHI - 110 001
(Wireless Finance Section)

OFFICE MEMORANDUM

Dated March 11, 2013

To

All Pr. Controller / Controller of Communications Accounts,

Subject: Transfer of work related to assessment & collection of spectrum dues and maintenance of Financial Bank Guarantees of Commercial VSAT and INSAT- Mobile Satellite System Reporting Service (INSAT-MSS reporting service).

It has been decided by the competent authority to transfer the work of Assessment & collection of spectrum dues and maintenance of Financial Bank Guarantees of Commercial VSAT and INSAT- Mobile Satellite System Reporting Service (INSAT-MSS reporting service) being done by Wireless Finance, DoT Hqrs. New Delhi to the %: Pr. Controller/ Controller of Communications Accounts.

The transfer of work relating to Assessment and collection of Wireless Spectrum Charges will be effective from 1st January 2013. The details of Spectrum charges collected by the WF Branch at DoT (HQ), for the year 2011-12, in respect of the above-mentioned licenses along with Bank Guarantees and other relevant records will be handed over to the concerned CCA offices.

The percentage rate for collection of Spectrum charges of each licensee will be as per order No. R-11014/9/2001-LR dated 16th April 2003 issued by WPC Wing of DoT Hqrs. Copy of the same is enclosed for ready reference. Assessment of SUC will be done by the respective CCA office keeping in view the AGR of the company which will be finalized by LF Section of CCA office.

Applicable rate for collection of Spectrum Charges is mentioned in the Licence Agreement of Wireless Operating License. Change in rate for collection of Spectrum Charges is also conveyed by SAT section WPC Wing as & when change in rates takes place.

Check list of Annual Assessment of Spectrum Charges

A.1 The Finalized Adjusted Gross Revenues is to be taken as in the case of Annual Assessment of License Fee.

A.2 Interest

Interest is to be charged on delayed/ unpaid/ short payments of Spectrum Charges as in the case of license Fee. Till 2004-05, the interest was payable at the rate defined as Prime Lending Rate (PLR) of State Bank of India plus 5% on the date when the amount fell due. However, from 1st April 2005, the rate has been modified to SBI PLR prevailing as on 1st April of that year plus 2 percent and is

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applicable throughout that financial year. Interest is compounded monthly and part of the month is treated as full Month.

A.3 Penalty

Penalty is charged, if shortfall in Spectrum Charges is more than 10 per cent of Spectrum Charges and the same is not made good within 60 days from the close of the year (i.e. 30th May). The penalty was 150 per cent of the shortfall up to 31st March 2005, which was reduced to 50 per cent from 1st April 2005.

If penalty is not paid within 15 days from the signing of Audited Annual Report, it attracts interest at the rates mentioned at para A.2 above.

The interest is levied as detailed below.

- (a) The Spectrum Charges is to be remitted by the Service providers on or before the dates as prescribed in the License Agreement, and interest is levied if there is a delay/ short payment.
- (b) Interest for each quarter is computed separately and charged till the date the dues is cleared/ paid by the service provider.
- (c) Interest is compounded monthly and part of the month is treated as full month, for example, if payment due on 15th July is paid on 3rd September, it will attract interest for three months (i.e. July to September).
- (d) If there is short payment of principal amount of Spectrum Charges in the previous quarter, the same is first made good from the payment received in next quarter.
- (e) Interest is liquidated only when there is a surplus after clearing the dues of Spectrum Charges.
- (f) Since interest is charged for full month, for compounding purpose the later part of the month is ignored i.e. the interest is compounded from next month.
- (g) If there is a holiday on the last day of prescribed period, the payment is to be received before the last day, as the holiday shall not result in extension of the specified period of payment.

A.4 Interest on Delayed Payments – Fourth Quarter

As per the terms of payment under License Agreement, due date for the payment of Spectrum Charges of last quarter shall be by 15th January on the basis of expected revenue for the quarter, subject to a minimum payment equal to the actual payment made for the previous quarter (i.e. 3rd quarter). However, the licensee shall adjust and pay the difference if any, between the payments made and actual amount due for the last quarter of financial year within 15 days of the end of quarter. If payment is not made within 15 days, it shall attract interest at the rate of SBI PLR (applicable for the relevant Financial Year) plus 2%. If the payment made on 15th January falls short of the payments made for 3rd quarter then the Interest will be charged on the shortfall from 16th march.

B Bank Guarantees

B.1 As per the terms of License Agreement, operators are required to furnish Bank guarantees (BGs) of an amount equivalent to the estimated sum payable annually in the Performa available in license agreement, valid for a period of one year, renewable from time to time till final clearance of all such dues. However as per the internal decision in WF Wing of DoT Hqrs., amount of BG is calculated on the basis of amount equivalent to the estimated sum payable annually plus 10% of this amount.

The amount and the time for which these guarantees are to be obtained from the service providers under various License Agreements are indicated in concerned License Agreement. The approved formats of Bank Guarantee are given in main License Agreement.

B.2 Consequent on the decentralization of BGs, safe custody and maintenance, bulk of the BGs has been transferred to concerned Pr. CCA/ CCA offices. It has now been decided that the work of safe custody of BGs pertaining to Commercial VSAT/INSAT MSS and their maintenance is also to be carried out by the concerned Pr. CCA/ CCA offices.

The BGs will be transferred to the concerned CCA office w.e.f. 01.10.2012. CCA office will depute a representative to collect the BGs along with other relevant records for further necessary action at their end.

B.3 Instructions have been issued from time to time to CCA offices regarding acceptance, maintenance, review and custody of the FBGs. All the BGs received, are to be recorded in the Bank Guarantee register, and authenticated by competent authority in % CCAs and time to time review is conducted to ensure their validity.

B.4 Validity of the BGs should be watched through a Bank Guarantee register to be maintained in the prescribed Performa and intimated to the DoT (HQ) in the first week of every month.

B.5 If extension of BG is not received before one month of its expiry, a letter maybe issued to the Bank with the stipulation that in case the BG is not extended before the stipulated date, the letter issued by DoT be treated as claim for encashment from the DoT and proceeds, through a Banker's cheque/Bank Draft, be sent to the concerned CCA office. A copy of such letter is also to be sent to the Licensee concerned.

B.6 A list of scheduled Banks and Financial Institutions, who can issue the BGs should be collected from RBI or downloaded from RBI's web site <http://rbi.org.in> and kept in record for watching that the BGs received are genuine one.

B.7 As soon the BG/ extension of BG/ renewal of BG is received, the issuing bank may be asked to confirm that BG received by the DoT is issued by that Bank and is valid one so as to ascertain its genuineness.

B.8 CCA offices to submit a monthly/quarterly return in the prescribed format regarding review of amount/ validity of BGs.

B.9 All the BGs maintained in Pr. CCA/ CCA office should be physically verified at the end of each year by CCA/Jt. CCA and a certificate to be recorded in

the Bank Guarantee Register, that all the BG's indicated in the BG register are in actual possession of the Pr. CCA/ CCA office.

B.10 Check list in respect of Bank Guarantees

- (i) As soon as the BG is received from the operator/ bank or operator replaces the BG with the existing one, the same should be compared with the approved format given in the License Agreement. Even if there a slight deviation the issuing bankers/ operator may be asked to rectify the same within a reasonable time.
- (ii) It is to be ensured that the BGs received are issued by the Scheduled bank or Financial Institutions as required as per License Agreements.
- (iii) If guarantee received is in the approved format and as per the conditions of the License Agreement (i.e. amount and validity), the issuing bankers may be asked to confirm that the BG issued by that bank is a valid guarantee. The letter for confirmation should be sent by Registered Post and not by FAX/ Courier.
- (iv) All the BGs received in Pr. CCA/ CCA office should be kept in a safe custody.
- (v) As soon as the BG is received, its details are to be recorded in the BG register under dated signature of concerned officer.
- (vi) The entry in the register should be authenticated by an officer in-charge who, before authentication must ensure that the guarantees received are in proper form and there is no lacuna.

B.11 Review of Bank Guarantees

B.11.1 Review of validity of Bank Guarantees.

- (i) Register of BG should be reviewed monthly. As per the terms of License Agreement, the operator/ issuing bank is required to renew the Bank Guarantee one/two months prior to expiry of validity period.
- (ii) In case of renewals/ extension of BGs, it should be ensured that there is change only in the amount and validity to an existing one. If there is any other change, the same should not be accepted and bankers/ licensee may be asked to set right the deviations immediately or within a reasonable time and in case of failure, the existing BG may be invoked. In no case, the Bank Guarantee is allowed to expire.
- (iii) If extension/ renewal of BG is not received before one/two months (as per terms of License Agreement) prior to its expiry, a letter to the issuing bank with a copy to the concerned operator must be issued with the stipulation that if BG is not renewed/ extended/ amended within the stipulated date, the letter issued is to be treated as DoT's claim for encashment and remittance of proceeds remitted to DoT.
- (iv) A notice of the extension/ renewal/ invocation of BG should be faxed and original one should be sent by Registered Post. The receipt of fax should also be got confirmed from the issuing bankers on telephone.
- (v) Pr. CCA/ CCA office should submit a certificate regarding review of validity of BGs in the prescribed format.

B.11.2 Review of amount of Bank Guarantees

- (i) Review of adequacy of amount of BGs may be carried out on month to month basis. The required amount of BG shall be of an amount equivalent to the estimated sum payable annually. However as per the internal decision in WF Wing, amount of BG is calculated on the basis of amount equivalent to the estimated sum payable annually plus 10% of this amount. If there is an increase in the amount, the operator may be asked to submit the BG for additional amount.
- (ii) Pr. CCA/ CCA offices should submit a certificate regarding review of amount in the prescribed format.

B.11.3 Invocation of Bank Guarantees

Pr. CCA/ CCA office can invoke Financial Bank Guarantees under the following circumstances:

- (i) BG is not in the prescribed Performa and the licensee is failing to rectify the default within a reasonable period.
- (ii) The amount of BG falls short of the amount required and licensee fails to submit the additional BG.
- (ii.) The licensee fails to make the quarterly payments even while he has submitted the AGR statements and Affidavit indicating the spectrum charges payable on self-assessment. A reminder to the demand letter and a final notice may be issued to the Licensee asking to deposit the required quarterly spectrum charges within a reasonable period. In spite of final notice, if Licensee fails to pay the demanded dues along with up to date interest, action as per terms of concerned License Agreement including invocation of the BG be initiated.
- (iv) If licensees have neither made payment nor submitted the documents like AGR statements/ affidavits or these are not in the prescribed format and fail to rectify the default even after a reasonable notice period action as detailed above in para (iii) may be taken.
- (v) In case of non-payment of amounts demanded upon annual assessment of License Fees even after a notice period of 15 days, if the Licensee has not disputed the assessment.

B.11.4 Treatment of Bank Guarantee proceeds

- (i) If BG has been invoked for realizing the amount due, which relates to a quarterly unpaid sum on the demand issued by the Department pursuant to Annual spectrum charges assessment, the equivalent portion of the proceeds shall be credited to 'Revenue Head' and balance to Security Deposit (SD) head (in the concerned Accounting head). A letter may also to be written to Licensee for replenishment of BG to restore the level of security.
- (ii) In other cases, the proceeds shall be credited to the SD Account.
- (iii) Subsequently when amount of SD is adjusted to outstanding amounts, proper journal entries (with narration) should be passed.
- (iv) Credit of proceeds should be taken through challan.

C Accounting Head

The Spectrum Usage Charges may be credited under the Heads of Accounts as under:

Commercial Very Small Aperture Terminal 1275001030204
INSAT MSS Reporting Service 1275008000000

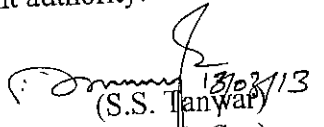
D No Dues Certificate

Whenever the concerned Licensing Branch of DoT Headquarters requires a No Dues Certificate, it would address the concerned Pr. CCA/ CCA office for the same directly. The concerned Pr. CCA/ CCA office will provide the "No Dues Certificate" after due examination to the Licensing Branch with a copy to the Wireless Finance Branch.

E Appellate Authority

In case there is a dispute between Pr. CCA/ CCA office and an operator in consequence of any additional demand made by the Pr. CCA/ CCA office, the dispute will be examined at the Headquarters by the competent authority.

Encl: List of Licensee as on date (Annexure 'A')


(S.S. Tanwar)
Sr. Accounts Officer (WR-Cap)
Tel. 23372297

Copy for information to:-

1. PPS to All Members of Telecom Commission, DOT
2. Wireless Advisor
3. Chief Vigilance Officer, DOT
5. DG P&T, Audit Delhi
6. DG, NICF
7. DDG (TPF & Accounts)
8. DDG (LF-1) — 9. D.D.G. (AS)
10. Director (IT) for uploading the order

Annexure 'A'

List of Licensees of Commercial VSAT and INSAT MSS Reporting Service as on 01.01.2013

Sl. No.	Name of the Company	Name of Pr.CCA / CCA where Company's LF Account is being maintained
1	M/s Bharti Airtel Ltd.	Pr. CCA Delhi
2	M/s Comsat Max Ltd.	Pr. CCA Delhi
3	M/s Essel Shyam Comm. Ltd.	Pr. CCA Delhi
4	M/s HCL Comnet System & Services Ltd.	Pr. CCA Delhi
5	M/s Hughes Comm. India Ltd.	Pr. CCA Delhi
6	M/s Infotel Satcom Pvt. Ltd.11.5.09	Pr. CCA Delhi
7	M/s NICS I 19.6.2009	Pr. CCA Delhi
8	M/s ITI LTD	Pr. CCA Delhi
9	M/s STPI 22.03.04	Pr. CCA Delhi
10	M/s TVC India Pvt. Ltd.	Pr. CCA Delhi
11	M/s Infinium India Limited	CCA Ahmadabad
12	M/s GNVCF Limited	CCA Ahmadabad
13	M/s Avantel Softech Ltd. (INSAT-MSS)	Pr. CCA Hyderabad
14	M/s Investwell Merchant Pvt. Ltd	Pr. CCA Kolkata
15	M/s Tatanet Services Ltd	Pr. CCA Mumbai
16	M/s BSNL	Pr. CCA Chennai

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