

Blow to Airtel, Voda Idea as SC dismisses AGR plea

TELECOM TANGLE Airtel, Voda Idea will need to cough up over ₹85,000 cr dues

Murali Krishnan

■ murali.krishnan@hindustantimes.com

NEWDELHI: The Supreme Court on Thursday effectively upheld an additional burden of more than ₹1 lakh crore as license fees on telecom companies by dismissing review petitions filed against its October 2019 judgment on the interpretation of “adjusted gross revenue” (AGR) under a licensing agreement between telecom service providers and the Union government.

A bench of justices Arun Mishra, S Abdul Nazeer and MR Shah heard the review plea in-chambers and dismissed it.

Bharti Airtel and Vodafone Idea will be the worst affected by the decision as the two companies have to pay more than ₹85,000 crore between them.

“While respecting the Hon’ble Supreme Court’s decision, we would like to express our disappointment as we believe the long standing disputes raised regarding the AGR definition were bona fide and genuine,” Bharti Airtel said in a press statement.

“The industry continues to face severe financial stress and the outcome could further erode the viability of the sector as a whole. The industry needs to continue to invest in expanding networks, acquiring spectrum and introducing New Technologies like 5G.

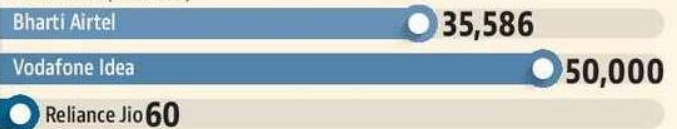
The money now required to pay punitive interest, penalty and interest on penalty which forms nearly 75% of AGR dues would have better served the digital mission of the country. We are evaluating filing a curative petition”, it added.

The top court, in its judgment delivered on October 24, 2019,

SC hangs up on telcos

Vodafone Idea alone has to pay around half of the more than ₹1 trillion that telecom operators owe the government in revenue dues.

AGR dues (in ₹ crore)



WHAT'S THE AGR ISSUE?

TELCOS AND DoT differ over AGR. While telcos said it comprised only revenue from mobile services, DoT said it accounts for all revenues including those from non-core telecom operations. The SC has upheld DoT's definition.



WHAT'S AT STAKE?

AGR SERVES as a base for most levies including licence fees, spectrum charges. After the SC verdict, Vodafone Idea and Bharti Airtel posted record losses as they set aside money to pay these dues to the government.



WHAT'S NEXT?

AIRTEL SAID it would use part of the proceeds from a \$3 bn fundraise to pay the dues. Aditya Birla Group chairman Kumar Mangalam Birla has said Voda Idea, would have to “shut shop” if there was no relief from the govt.



Graphic: Sarvesh Kumar Sharma/Mint

Source: Mint research

THE MONEY REQUIRED TO PAY INTEREST, PENALTY AND INTEREST ON PENALTY WOULD HAVE BETTER SERVED THE DIGITAL MISSION OF THE COUNTRY, AIRTEL SAID IN A STATEMENT

upheld the interpretation given to the definition of AGR by the Department of Telecom (DoT) and included revenues from various heads for calculation of AGR, thereby imposing a cumulative burden of over 1 lakh crore on 16 telecom companies.

Aditya Birla Group chairman Kumar Mangalam Birla sounded a stark warning last month, say-

ing the group's telecom unit, Vodafone Idea Ltd, would have to shut shop if no relief was forthcoming from the government to soften the SC verdict's blow.

“If you ask me specifically, it is true we will shut shop if we don't get relief. Because there is no company in the world that can pay that kind of fine in three months, it just doesn't work like that,” Birla said at the *Hindustan Times* leadership summit.

The dispute concerns the license fee payable by the telecom companies, which in turn depends on the gross revenue of the company. Gross revenue was defined under clause 19—of the licensing agreement between the central government and telecom companies—which provided for the exclusion of revenues under certain heads while calculating

AGR.

“SC has correctly interpreted the letter of the law. However, to meet the spirit, government should revise policy to exclude non telecom revenues. In 1999, New Telecom Policy changed license fees from fixed amount to revenue share. The objective was to give relief to the telcos by charging them % of revenue that licence generates instead of fixed fee. Neither the government nor telecom industry gave thought to non-telecom revenues, as they envisaged that telcos would only be providing telecom services through licensed entity. However, things evolved but policy was never clarified, leading Telcos to pay AGR on revenues for which license is not required”, Vaibhav Parikh, partner at Nishith Desai Associates, said.