

# IN THE HIGH COURT OF SINDH AT KARACHI

## High Court Appeal No.01 of 2025

[Wise Communication System [Pvt.] Limited *versus* Federation of Pakistan and Others]

Along With

## High Court Appeal No.02 of 2025

[4B Gentel International [Pvt.] Limited *versus* Federation of Pakistan and Others]

And

## High Court Appeal No.91 of 2025

[WorldCall Telecom Limited *versus* Federation of Pakistan and Others]

Present:

Mr. Muhammad Faisal Kamal Alam, J.

Ms. Sana Akram Minhas, J.

Dates of Hearing : 10.03.2026 and 12.03.2026

Appellants [in all Appeals] : Wise Communication System [Pvt.] Limited, 4G Gentel International [Pvt.] Limited and WorldCall Telecom Limited, through Mr. Abdul Ahad Nadeem, Advocate.

Respondents No.2 and 3 : Pakistan Telecommunication Authority and Universal Service Fund, through Mr. Muhammad Saad Siddiqui along with Mr. Sahibzada Muhammad Mubeen, Advocates [in HCA Nos.1 & 2 of 2025].

Respondent No.2 : Pakistan Telecommunication Authority, through Mr. Muhammad Wasif Riaz, Advocate [in HCA No.91 of 2025].

Other Respondents : *Nemo.*

## JUDGMENT

**Muhammad Faisal Kamal Alam, J:** In all these High Court Appeals, the **Impugned Order** dated 27.11.2024 is common, whereby the Plaints in Suit Nos.914, 917 and 921 of 2011 [“**Subject Suits**”] have been directed to be returned for presentation before the Court having jurisdiction [at Islamabad], on the ground that this Court lacks territorial jurisdiction.

2. Mr. Abdul Ahad Nadeem, learned counsel for the Appellants [in all Appeals] has argued that material facts attracting the jurisdiction of this Court have been overlooked in the Impugned Order, *inter alia*, in particular, that the Respondent No. 2 – Pakistan Telecommunication

Authority [“PTA”] against which main reliefs are sought, has its Offices all over Pakistan including Karachi; the Subject Suits of the Appellants are pending since 2011 and at this stage the Appellants would face hardship if now directed to proceed before the Courts at Islamabad; the Prayer Clause with regard to Enforcement Order dated 22.4.2010 [*which according to paragraph 15 of PTA’s Counter-Affidavit has been deliberately misstated in the Plaintiff’s Prayer Clause (VI) as 22.4.2011*] earlier passed in the matter by Respondent-PTA, is not being pressed, as the same has already been decided in an earlier round of litigation by the learned Islamabad High Court; vide Order dated 03.09.2024 passed in Suits, it was decided that the entire controversy can be determined on the basis of Legal Issues, which were framed [*Court File page-689*], besides, when earlier High Court Appeals were preferred in this Court against the interlocutory Order, those were disposed of by a Division Bench’s Consent Order dated 16.8.2021, restraining the PTA from taking coercive action against the Appellants, and directing the parties to proceed with their respective Suits [including those in which now the Impugned Orders have been passed]. Counsel further contends that different Suits were pending in this Court, couple of which are now transferred to the District Court at Karachi, in view of the latest statutory amendment, and they are still *sub judice*, thus, the Subject Suits may also be allowed to proceed with those Suits at Karachi, and the Impugned Order be set at naught, as, it is not within the parameters of Order 7 Rule 10 of Civil Procedure Code [“CPC”]. The License issued to the Appellant to provide telecommunication services is for the entire Pakistan and any dispute relating to the same or with the PTA can be challenged in any of the Provincial Courts, where PTA has its offices and establishment, coupled with the fact that Appellants / Plaintiffs are also seeking recovery of excess payments made towards Access Promotion Contribution [“APC”] for the Universal Service Fund [“USF”], which remedy falls within Section 19 of CPC and thus Courts in Karachi at least have concurrent jurisdiction. Learned Counsel has provided a Compendium of Case Law and has placed reliance on the following\_

- i. **P L D 2022 Sindh 319**  
[*China Mobile Pakistan Limited (CMPAK Limited/Zong) through Legal Advisor (South) and another versus Federation of Pakistan through Secretary, Ministry of Information, Technology and Telecommunication and 3 others*];

- ii. **2017 S C M R 1179**  
[*the Federal Government through Secretary Interior, Government of Pakistan versus Ms. Ayyan Ali and others*] and
- iii. **2020 C L C 602 [Sindh]**  
[*Safe Mix Concrete Limited through Company Secretary versus Pakistan through Secretary (Revenue Division) and 4 others*].

3. The above line of arguments is opposed by Mr. Muhammad Saad Siddiqui, Advocate along with Mr. Sahibzada Muhammad Mubeen, Advocate, representing PTA in HCA Nos.1 and 2 of 2025, and Mr. Muhammad Wasif Riaz, Advocate, representing PTA in HCA No.91 of 2025. The common defence of PTA is that the present controversy revolves around the payment of APC for USF, and is in continuation of the action taken by PTA earlier when proceedings were initiated against the Appellants as per Statutory Rules at Islamabad, wherein Decisions were rendered, which were unsuccessfully challenged before the learned Islamabad High Court; in some Suits Plaints were rejected, as some of the plaintiffs were attempting to engage in '*forum shopping*'. Mr. Muhammad Saad Siddiqui, Advocate, has referred to Annexure 'H/4' [appended with PTA's Counter Affidavit], which is afore-referred Decision communicated to Appellant [in HCA No.01 of 2025] at its Islamabad Office, situated in Sajid Sharif Plaza, G-11 Markaz, and its registered Office is at House No.96, 10<sup>th</sup> Road, Satellite Town, Rawalpindi, so also in the case of Appellant in HCA No.2 of 2025 [4B Gentel International (Pvt.) Limited], whose Office is situated in Gulberg Lahore. Learned Counsel for PTA in HCA No.91 of 2025 [WorldCall Telecom Limited – **WorldCall**] has referred to record of the *LIS* to bring home his arguments on territorial jurisdiction in support of the Impugned Order by drawing our attention to *Court File pages-51, 257, 263, 277 and 635*; the description whereof is, Board Resolution of the Appellant-Company for filing proceeding, showing its Head Office at Plot No.112-113, Block S, Quaid-e-Azam Industrial Estate, Kot Lakhpat Lahore; the Show Cause Notice to the Appellant for recovery of the above APC [dated 26.5.2010], served upon the Appellant at its Office in Gulberg, Lahore, so also Communication of Decision at its Lahore Office, and the Escrow Account in National Bank of Pakistan [NBP] where the APC is deposited, is also in Islamabad, Marriot Hotel [Branch].

Placed reliance on case law **2019 M L D 1053** [Sindh] [*Telecard Limited through Representative versus Federation of Pakistan through Secretary and 2 others*].

4. Arguments heard, record perused.

5. The above stated facts about the earlier departmental proceeding, litigation and the Offices of the Appellants in Punjab and Islamabad are undisputed. However, it is clarified that the copies of the Writ Petition No.2110 of 2010 filed before the learned Lahore High Court [Rawalpindi Bench] challenging the departmental decision and subsequent Show Cause Notice for suspension of the License and its dismissal with costs by the Court appended with the Counter affidavit of Respondent PTA, filed in HCA No.91 of 2025 [WorldCall], is in fact of the Appellant in HCA No.02 of 2025 [4B Gentel International [Pvt.] Limited], **and not of WorldCall**. Thus, the argument of the Counsel in HCA No.91 of 2025 and paragraphs 12 and 13 of the Counter affidavit of PTA, is contrary to record.

6. One of the main Issues in the Subject Suits relate to payment of **APC**, *inter alia*, in terms of the Access Promotion Rules, 2004 [**the said Rules**]. The Plaints of the Subject Suits highlight, *inter alia*, that since Appellants / Plaintiffs have paid excess amount of contribution, therefore, PTA is liable to refund the amount. Undisputedly, vide a Notification dated 1<sup>st</sup> July, 2014, the Policy vis-à-vis the APC was withdrawn. The present controversy thus, related to the contribution preceding the period of the above Notification.

7. In case of Wise Communication System [HCA No.01 of 2025], Enforcement Order dated 22.4.2010 was challenged in FAO [First Appeal against Order] No.06 of 2010, which was dismissed by the learned Islamabad High Court and the Decision was never impugned further; similarly, the Appellant in HCA No.02 of 2025 [4B Gentel International (Pvt.) Limited] was communicated the Decision dated 22.4.2010 at its Gulberg Office Lahore, was earlier challenged before the learned Lahore High Court [Rawalpindi Bench], probably subsequently transferred to the learned Islamabad High Court, because the Decision is of the latter High Court, which dismissed the case with costs, and the observation that object of such litigation was to avoid payment "*as much as possible*".

Whereas, the Appellant [WorldCall] in HCA No.91 of 2025 was also proceeded against at the Head office of the PTA at Islamabad. The Decision dated 14.04.2011 is appended with the Counter-Affidavit of PTA, disposing of the proceedings upon the Undertaking of the Appellant [WorldCall] to make payments and withdraw the Writ Petition No.9578 of 2010 along with FAO No.103 of 2010, pending adjudication before the learned Lahore High Court (Lahore) at the relevant time, whereafter, the Writ Petition was withdrawn and the Appellant was directed to withdraw its said Appeal also, with a caution that if any of the cheques submitted towards payments is dishonoured, then adverse consequences will follow.

8. It is also necessary to state here, that earlier, the above Appellants WorldCall and 4B Gentel along with the other telecommunication service providers had, *inter alia*, challenged the vires of the said Rules [*supra*], before the learned Islamabad High Court, which was dismissed by the common Judgment reported in **P L D 2009 Islamabad 41** [*Wi-Tribe Pakistan Limited versus Federation of Pakistan and another*], and was upheld by the Hon'ble Supreme Court as reported in **2016 S C M R 475** [*WorldCall Telecom Limited and others versus Pakistan Telecommunication Authority and others*].

9. In view of the above peculiar facts, *inter alia*, when a part/ segment of the dispute is already decided by the Respondent PTA vide its above Decision, which attained finality [as highlighted in the foregoing paragraphs], the case law cited by the Appellants' Counsel is distinguishable. Presence of the Appellants and the Respondent-PTA through their regional offices at Karachi, from which no adverse action was taken, would not confer the jurisdiction upon the Courts in Karachi; conversely, at all material times, the Appellants were litigating before the learned Lahore and Islamabad High Courts.

10. Summation of the above discussion is, that the Impugned Order does not suffer from any illegality, *inter alia*, because the Appellants are neither being non-suited nor are being rendered remediless, but are merely being called upon to present their Subject Suits in the Court of competent jurisdiction. Accordingly, the instant Appeals are **dismissed** but with no

order as to costs. It is clarified that any observation made in this Judgment is tentative in nature and shall not influence the trial.

11. Plaints of the above Subject Suits shall be returned forthwith.

**Judge**

**Judge**

Karachi.

**Dated: 18.03.2026**

*Riaz, P.S.*