

## CHAPTER - V

### Revenue Shared by M/s Quadrant Televentures Limited

#### 5.1 Introduction

Quadrant Televentures Limited (QTL) formerly known as HFCL Infotel Limited obtained Unified Access Services License (UASL) in 2000 for Punjab Licensed Service Area (LSA) from Department of Telecommunications (DoT). QTL started its basic telephone service in October 2000. Subsequently, the Company migrated to the Unified Access (Basic and Cellular) Service License (UASL) with effect from November 2003 for Punjab circle and signed the UASL agreement in May 2004. QTL was allotted Code Division Multiple Access (CDMA) spectrum in August 2006 for Punjab Telecom Service Area and started operations in CDMA technology from 2007. It was allotted spectrum for Global System of Mobile (GSM) service in September 2008 and started operation in GSM technology from March 2010.

Besides these services QTL also held ISP license Service Area 'B' for Punjab Telecom Circle since June 2000 for providing internet service. On expiry of the ISP license, QTL was granted ISP Category –'A' (Pan India) Unified License in January 2015.

#### 5.1.1 Radio Frequency Spectrum held by QTL

The details of Radio Frequency Spectrum held by QTL are furnished in Table 5.1 below:

**Table 5.1**

Sl. No.	Technology	Spectrum	No. of MW Access Carriers*	No. of MW backbone Carriers	LSA
1	GSM	2 x 4.4 MHz	3	Nil	Punjab
2	CDMA	2 x 1.23MHz	2	Nil	Punjab

\*1 carrier equals to 56 MHz.

#### 5.1.2 Revenue Reported and Revenue Share paid by QTL

Telecom Service Providers are required to pay Licence Fee (LF) and Spectrum Usage Charges (SUC) at a percentage of Adjusted Gross Revenue (AGR) on quarterly basis on self-assessment basis. Gross Revenue (GR), Deductions, AGR

reported and revenue shared (LF and SUC) by QTL during the period 2006-07 to 2014-15 furnished in Table 5.2 below:

**Table 5.2**

(₹ in crore)

Year	Subscribers Base at year end (in crore)	GR	Deductions	AGR	Percentage of AGR to GR	Revenue Share (LF + SUC)
2006-07	0.03	276.49	62.43	183.03	74.56	16.11
2007-08	0.04	250.44	61.92	141.71	69.59	12.33
2008-09	0.06	224.42	40.42	130.08	76.31	11.67
2009-10	0.05	198.17	35.13	100.69	74.30	8.92
2010-11	0.17	238.49	28.36	136.90	82.83	13.69
2011-12	0.15	284.51	79.98	114.68	58.91	11.50
2012-13	0.16	338.73	92.35	221.36	65.35	17.49
2013-14	0.24	414.31	148.02	266.28	64.27	24.13
2014-15	0.30	528.68	261.17	267.52	50.60	23.31
<b>Total</b>		<b>2754.24</b>	<b>809.60</b>	<b>1562.25</b>	<b>56.72</b>	<b>139.15</b>

## 5.2 Under Reporting of Revenue from Prepaid Services due to Netting off of Commission/Discounts/Offers to Distributors/Subscribers

From the scrutiny of data/records pertaining to prepaid services furnished by QTL, it was observed that during the period from 2010-11 to 2014-15 –

- The commission offered to distributors/agents as upfront discount was not included in revenue of prepaid services;
- Free Air Time (FAT) to customers, was not included in the revenue from prepaid services for calculation of GR/AGR.

The item wise details are furnished below-

### 5.2.1 Under Reporting of Prepaid Revenue due to Set-off of Upfront Commission/Discount offered to Distributors

QTL markets various products/services in pre-paid segment through channel sales partners/agents/franchisees/dealers/distributors, etc. for which they are paid margin/commission. Such margin/commission etc. are in the nature of expense for the licensee.

On a review of accounts of QTL, it was observed that the commission/margin amounting to ₹ 39.32 crore paid to the distributor/franchises/agents/dealers during the FYs 2010-11 to 2014-15 was debited to the revenue heads of prepaid services

resulting in netting off of pre-paid revenue. This resulted in reduction of actual revenue considered in the AGR statements submitted by them to Controller of Communication Accounts (CCA)/Department of Telecommunications (DoT). As the commission/margin paid to the distributor/franchises/agents/dealers were in the nature of expenses, netting of such expenses with revenue was against the licence condition resulting in under reporting of GR to the extent of ₹ 39.32 crore.

Management replied that: –

- The amounts which were debited in the GL revenue ledger of Processing were of Trade discount offered to Distributors at the time of primary Billing. As per the accounting policy followed, the actual inflow to the company i.e. amount paid by the distributor only is carried to the P& L account and not the maximum retail price of the product sold through the distributor;
- Sale of product to the Distributor was on agreed price and that price was reflected in P & L account and there was no netting off of any Revenue with the expenses.;
- In Accordance with AS-9, the price at which the company sells the product to the distributors was the consideration received and hence only this amount should be recognized as revenue. There was no inflow of cash, receivables or other consideration;
- TDSAT vide its Judgment Dated 23 April 2015 also referred that if the sale was on an agreed price, invoiced at that agreed price and booked under the revenue in the profit and loss account accordingly, without netting off any discount, the actual selling price would be revenue and the difference between the MRP and selling price cannot be added to “Gross Revenue”.
- In view of the above, QTL was not in a position to accept or consider Audit point against the Understatement of GR of QTL due to Netting off of Trade Discount.

The above responses are not acceptable due to the reasons given below:-

- QTL is ultimately rendering the services and had QTL sold the cards directly to the customers, revenue would have been accounted for full value of service rendered and selling expenses would have been accounted as expenditure. On the same analogy, discount/commission accorded to distributors would be in the nature of Marketing Expenditure and thus, should not be deducted from Revenue

- While the matter is sub-judice at the Hon'ble Supreme Court, Audit view is that commission/margin paid to the distributors/franchises/dealers is in the nature of marketing expenses, therefore, set-off of such expenses with revenue was against the licence condition.

Thus, non-consideration of upfront discount/commission of ₹ 39.32 crore given to distributors for inclusion in GR/AGR for computation of revenue share resulted in understatement of GR/AGR to that extent with consequent short payment of LF and SUC by ₹ 3.15 crore and ₹ 1.40 crore respectively (**Annexure-5.01**).

### **5.2.2 Under Reporting of Revenue on account of Free Airtime to Prepaid Subscribers**

QTL offers Free Airtime (FAT) to its prepaid subscribers. Audit observed that the value of FAT extended to customers amounting to ₹ 3.18 crore during the period from 2010-11 to 2014-15 was not recognised in the GR/AGR for computation of revenue share. Since offers to customers like free airtime was part of overall commercial strategy to enhance business, the costs of such offers were in the nature of expenses. Further as per licence agreement, service revenue should be shown gross without any set-off. Thus, non-inclusion of FAT for computation of revenue share resulted in under reporting of revenue to the tune of ₹ 3.18 crore.

QTL stated that:-

- The GL code 700841 is only for airtime discount, in this GL no revenue is booked and there is no question of netting this amount from revenue. While calculating the Airtime discount amount, Audit has not considered the credit entries of discounts in the same GL.
- Certain prepaid tariff scheme were offered based on market demand/management decision and free airtime was provided to subscribers on making recharge through specified recharge vouchers denominations. The tariff amount which were actually paid by the subscribers were ultimately booked as revenue. These tariff schemes were within the TRAI Guidelines.
- The FAT was offered to QTL GSM customers only and the offer was over and above the talk time. The FAT offered is a promotional activity with the motive of retaining the customer and decrease the churn.
- The company has recognized the revenue against the Free Airtime and there is no corresponding cash flow/receipt.

- FAT is in the nature of planned business strategy and part of tariff plan filed with TRAI. It is given upfront to the customers and such notional amount cannot be subject to LF.
- In terms of AS-9, “Revenue is the Gross inflow of cash, receivable or consideration arising in the course of the ordinary activities of the enterprise from the sale of goods, from the rendering of services and therefore keeping the same into consideration of the above points, the LF has been paid on the realised revenue.

Audit views on the reply of the Management are as given below:-

- Audit contends that revenue was net after considering the discount booked in the GL Code 700841 and since this was contrary to Licence agreement, revenue was understated to that extent;
- The details of FAT offered as per the tariff and that offered as promotion to customers were not furnished;
- Audit also contends that Airtime is not a free commodity, had an intrinsic value and by giving FAT, the licensee is foregoing the revenue instead of booking this as expenses resulting in avoidance of LF and SUC.

Thus, netting off FAT amounting to ₹ 3.18 crore given to pre-paid subscribers has resulted in understatement of GR/AGR, and consequently short payment of LF and SUC by ₹ 0.25 crore and ₹ 0.11 crore respectively (**Annexure - 5.02**).

### **5.2.3 Non-consideration of Revenue from Sale of Prepaid SIM cards**

The company operated 1+1 scheme during 2013-14 and 2014-15. Under the scheme, two SIMs were delivered to distributor against price of one SIM. Audit observed from the General Ledger (GL) of QTL that revenue of one SIM was accounted while the cost of SIM given free amounting to ₹ 1.90 crore was not considered for computation of GR/AGR. As the scheme was promotional in nature, non-inclusion of the value of the SIM was in deviation of clause 19.1 of UASL/UL agreement.

QTL stated that:-

- SIM Activation Revenue gets credited to Revenue GL Code 700843 - GSM Processing Fee and debited to GL 500407 GSM common un-accrued liability. There was no separate GL for booking of revenue from activated SIM cards.

- The Company offers 1+1 SIM to its Distributors based on market demand and Management decision against the order placed by distributors for SIM purchase.
- In term of Accounting Standard AS-9 "Revenue is the Gross inflow of cash, receivable or consideration arising in the course of the ordinary activities of the enterprise from the sale of goods, from the rendering of services and therefore keeping the same' into consideration of the above points, the LF has been paid on the realized revenue.
- TDSAT vide its Judgment Dated 23 April 2015 also referred that in to order to be counted "GR", the meaning of inflow must not be notional and but realized.
- Keeping in view of the above cited facts, Audit point of FOC SIMs for ₹ 8.20 crore is not tenable.

Audit views on the comments of the QTL are as follows:-

- Audit contends that 1+1 scheme was in nature of promotion and hence, sale value of SIM should have been accounted as revenue and the value of SIM given for free booked as expenditure. By non-accounting of free value of SIM, QTL had understated revenue by ₹ 1.90 crore.
- While the matter is sub-judice at Hon'ble Supreme Court, Audit view is that 1+1 scheme is in the nature of marketing expenses and therefore, non-inclusion of the value of free SIM in revenue for computation of GR/AGR was against the licence condition.

Thus, the action of the Management in non-considering the revenue of ₹ 1.90 crore was against the licence agreement. This resulted in understatement of GR/AGR by ₹ 1.90 crore and consequent short payment of LF and SUC by ₹ 0.15 crore and ₹ 0.07 crore respectively (**Annexure - 5.03**).

### 5.3 Incomes not offered for Revenue Share

The licence agreement, while prescribing certification of the accounts of the licensee companies by their Auditors in accordance with the provisions of the Companies' Act, 1956/Companies Act, 2013, also specified that reconciliation should be done between the revenue appearing in the revenue share statements and the annual accounts of the Company as certified by their Auditors.

Review of the reconciliation statements with the Trial Balances, Audited AGR statements prepared by the Statutory Auditors submitted along with Auditors' Report and comparing them with primary accounting records of QTL for the years from 2006-07 to 2014-15 showed that income/revenue under certain categories,

appearing in the Company's accounts, were not considered for computation of GR/AGR and payment of revenue share. These revenues which should have been a part of AGR were not included in the AGR statements. Incomes which were excluded from GR/AGR are discussed below:

### 5.3.1 Forex Gain not included in GR/AGR

In terms of licence agreement, GR shall be inclusive of any other miscellaneous revenue. During the scrutiny of GL of SAP ERP System made available to Audit, it was observed that an amount of ₹ 18.45 crore was booked as realized gain on Forex transactions. However, on verification of reconciliation/mapping for AGR, it was noticed that net forex gain of ₹ 0.01 crore was considered in GR/AGR in 2014-15. Thus, the balance revenue of ₹ 18.44 crore earned on forex gain was not considered for GR/AGR for the purpose of revenue share payable to DoT .

Audit could not arrive at the actual value of items accounted under realised gain every year for want of original value of each item. The operator should calculate the gain of each item with reference to its initial value of accounting and include the total forex gain in GR/AGR.

QTL replied that-

- Any foreign exchange fluctuation whether gain or loss is contingent in nature and the same is not generated from the telecom services being provided by the company;
- Foreign Exchange fluctuation was a contingency which had impact on every business and such gain had not accrued from primary or supplementary services of the company i.e. providing telecom services to its customers/subscribers. Forex gains result when liabilities for payment in foreign exchange decrease on account of appreciation of domestic currency vis-à-vis foreign currency and such exchange differences arise when rates differ from those at which they were initially recorded in the books;
- Audit has considered only notional gain ignoring the loss recorded in the head of accounts. The forex gain loss, unlike telecom expenditure, was not something where the notional gain was to be viewed in isolation of the loss, as these were not recorded on the same principles adopted to account for the exchange rate differences at the end of each books closing period. This gets actualized only at the time of payment to the vendor.
- TDSAT Judgment dated 23 April'2015 passed that "any gain or loss due to foreign exchange fluctuation should have no bearing on the License fee".

Contention of the Management is not acceptable due to following reasons:-

- In terms of the licence agreement GR shall be inclusive of any other miscellaneous revenue and audit is of the view that any gain incidental to PSPs should be considered for GR.
- The company has been following mercantile method of accounting and as per commercial principle of accounting, “the profit/loss” is to be arrived after taking into account all accrued receipts and expenses and comparing of trading assets between two different dates. Under the mercantile system of accounting a forex gain (revenue)/loss (expenditure) incurred as a result of exchange differences are rational and cannot be considered as contingent/notional in nature. Further, audit has considered the realised gain only.
- While the matter is sub-judice at Hon’ble Supreme Court, Audit view is that in terms of license agreement gain arising from foreign exchange should be included in GR/AGR for computation of revenue share.

Non-inclusion of realised forex gain by QTL resulted in understatement of GR/AGR by ₹ 18.44 crore and consequent short payment of LF and SUC by ₹ 1.48 crore and ₹ 0.47 crore respectively (**Annexure-5.04**).

### **5.3.2 Non consideration of Profit on Sale of Fixed Assets in GR/AGR**

In terms of conditions under licence agreement, the Gross Revenue shall be inclusive of revenue on account of interest, dividend and any other miscellaneous revenue without any set-off for related item of expense, etc. Review of book of accounts of QTL for the period from 2006-07 to 2014-15 revealed that profit on sale of fixed assets amounting to ₹ 38.61 crore was not considered for GR/AGR .

QTL replied that:-

- The corporate incomes did not arise from the licensed activity and for doing this no license was required. Further, separate divisional books of accounts were maintained for the non-telecom businesses which had no nexus with the licensed activity of any telecom circles.
- The gain from sale of assets had not been earned as a part of the revenue from telecom service and hence was not considered in the calculation of AGR.
- The issue of inclusion the non telecom revenue in GR was challenged before Hon’ble TDSAT and TDSAT vide its judgment dated 23 April 2015 had excluded receipts of gain from sale of assets in considering the calculation of the AGR.

- Keeping in consideration of the above facts QTL was not in a position of accepting the query of gain from sale of assets.

The reply of the company is not convincing since

- In terms of definition of GR as per licence agreement, GR shall include all revenue accruing to the Licencee without any set-off for related item of expense;
- While the matter is sub-judice at Hon'ble Supreme Court, Audit view is that in terms of license agreement profit on sale of fixed assets should be included in GR/AGR for computation of revenue share.

Non consideration of this amount resulted in understatement of GR/AGR by ₹ 38.61 crore and consequent short payment of LF and SUC by ₹ 3.09 crore and ₹ 0.83 crore respectively (**Annexure 5.05**).

### **5.3.3 Non Consideration of Revenue from Infrastructure Sharing for AGR for Payment of SUC**

Format of statement of revenue and licence fee (AGR statement) prescribed as Appendix II to Annexure II as referred in Clause 20.4 of the UASL agreement is an integral part of the Licence Agreement. In the statement, item 1 A has been prescribed to reflect the “revenue from wire line subscribers”. Item 7 and Item 8 have been prescribed to reflect revenue from sharing/leasing of infrastructure and revenue from sale/lease of bandwidth, links, R&G cases, turnkey projects, etc. respectively. Further, Clause 18.3.1 of UASL agreement provides that “While calculating AGR for limited purpose of levying spectrum charges based on revenue share, revenue from wire line subscribers shall not be taken into account”.

During the review of the AGR Statements, it was noticed that QTL earned “Revenue from sharing of infrastructure (towers) and sharing of infrastructure (Dark Fibre) amounting to ₹ 8.25 crore and ₹ 48.12 crore in the years from 2006-07 to 2014-15. These items were included under Item 7 and 8 of the AGR statement in the years 2006-07 and 2007-08. But during the years from 2008-09 to 2014-15 these revenue were included in the AGR Statements under wire line subscribers in Item 1A instead of Item 7 and Item 8 for computation of LF violating conditions of licence. But these revenues not considered in the AGR for computation of SUC which was in contravention of the provisions of clause 18.3.1 of the Licence agreements.

QTL replied that:-

- Under QTL, there is one more Business stream i.e. Wire line business. Revenue generated from Lease Lines and Dark Fiber which are related to

wire line services and are non spectrum based Telecom activity has been shown under the AGR of UASL, but the portion of these revenue's doesn't fall under the Wireless, hence no SUC charges are applicable on the same. Further clause no. 18.3 of UASL agreement also substantiate the same which is reproduced as under "While calculating AGR for the limited purpose of levying spectrum charges based on revenue share, revenue from wireline subscribers shall not be taken into account".

- Regarding the query on Non-inclusion of SUC charges on revenue from Sharing of Infrastructure (Towers), as per the DoT notification the earning from the tower sharing never be treated as "Revenue" and it's purely the reimbursement of Expenses only and it's been facilitated with the set off.
- Tower sharing is not revenue but still we have ended up making the License fee and according to the facts furnished, there is no SUC charges applicable for the tower sharing earning.
- Keeping in view of the above and the facts furnished and justified of non applicability of SUC charges on the specified revenue streams and QTL was not in a position to accept the query of applicability of SUC charges.

Audit's views on the company's reply is as follows:

- The contention of the company that Revenue generated from Dark Fiber was related to wire line services is not acceptable since it was also in the nature of sharing of infrastructure and hence, was to be included in AGR for payment of SUC;
- Regarding sharing of infrastructure, expenditure incurred on infrastructure shared did not constitute reimbursement since they had to be incurred irrespective of whether the towers were shared or not. In fact, by sharing the expenditure, the Company benefited through additional income.

Due to non-consideration of infrastructure share revenue of ₹ 56.37 crore in AGR for SUC, revenue share of ₹ 1.69 crore was short paid to DoT (**Annexure-5.06**).

#### **5.3.4 Interest Income not considered for Payment of LF and SUC**

As per the licence agreement, GR for the purpose of payment of Revenue Share shall be inclusive of revenue on account of interest. Review of data/records furnished by QTL for the period from 2006-07 to 2014-15 revealed that interest income of ₹ 2.71 crore accounted in the books of accounts during the years 2006-07 to 2008-09 and 2014-15 was not considered for the purpose of payment of SUC. Further, interest income of ₹ 1.16 crore out of ₹ 2.71 crore was not included in AGR pertaining to the year 2014-15 was also not considered for the purpose of payment of LF.

QTL stated that:-

- Though the industry never considers of the Investment and Miscellaneous Income under GR, QTL has considered it as income and the LF has been paid.
- Regarding non-payment of the SUC on Investment and Miscellaneous income, it's not applicable for the period of 2006-07 to 2008-09. The spectrum has been allotted to QTL with the year effect from 2009-10.
- The Interest have not been earned as a part of the revenue from telecom services and hence was not considered in the calculation of the AGR.
- It is also submitted that the said issue was challenged before Hon'ble TDSAT and Hon'ble TDSAT vide its Judgment dated 23 April 2015 decided against the operators. The said Judgment has been challenged by the Company as well as by DoT, Therefore the issue is Sub-Judice.
- Keeping in consideration the above facts, QTL is not in a position to accept the query on non-payment of LF and SUC on Interest income.

Management's reply is not acceptable due to following:-

- QTL was allotted CDMA spectrum in August 2006. QTL was providing service under CDMA technology from 2007 onwards. QTL submitted AGR for SUC and also paid SUC excluding interest income. This was not in accordance with Licence agreement.
- While the matter is sub-judice at Hon'ble Supreme Court, Audit view is that in terms of license agreement, interest income should be included in GR/AGR for computation of revenue share.

Due to non-consideration of interest income in AGR, LF and SUC were short paid by ₹ 0.09 crore and ₹ 0.07 crore respectively by QTL (**Annexure-5.07**).

### **5.3.5 Miscellaneous Income not considered for Payment of LF and SUC**

In terms of conditions under licence agreement, the Gross Revenue shall be inclusive of revenue on account of interest, dividend and any other miscellaneous revenue without any set-off for related item of expense, etc. Scrutiny of AGR statements for the year from 2006-07 to 2008-09 and 2014-15 of QTL revealed that miscellaneous income of ₹ 8.79 crore was excluded from the GR/AGR for SUC. In the year 2014-15 miscellaneous income of ₹ 0.10 crore out of ₹ 8.79 crore was not included in AGR for LF.

QTL stated that:-

- Though the industry never considers of the Investment and Miscellaneous Income under GR, QTL has considered it as income and the LF has been paid.
- Regarding non-payment of the SUC on Investment and Miscellaneous income, it's not applicable for the period of 2006-07 to 2008-09. The spectrum has been allotted to QTL with the year effect from 2009-10.
- The Miscellaneous income and scrap sale gain have not been earned as a part of the revenue from telecom services and hence was not considered in the calculation of the AGR.
- It is also submitted that the said issue was challenged before Hon'ble TDSAT and Hon'ble TDSAT vide its Judgment dated 23 April 2015 decided against the operators. The said Judgment has been challenged by the company as well as by DoT, Therefore the issue is Sub-judice.
- Keeping in consideration the above facts, QTL is not in a position to accept the query on Non -payment of the LF and SUC on Miscellaneous income.

Management's reply is not acceptable due to following:-

- Regarding spectrum allotment, Audit views are furnished in para 5.3.4 above;
- While the matter is sub-judice at Hon'ble Supreme Court, Audit view is that in terms of license agreement, Miscellaneous income should be included in GR/AGR for computation of revenue share.

Due to non-consideration of miscellaneous income in AGR, LF and SUC were short paid by ₹ 0.01 crore and ₹ 0.18 crore respectively by QTL (**Annexure-5.08**).

#### **5.4 Interest on Short /Non Payment of LF and SUC**

On issues raised above (from para 5.2.1 to 5.3.5) short/non-payment of LF and SUC worked out to ₹ 8.22 crore and ₹ 4.82 crore respectively. The interest on this short/non-payment of LF and SUC is ₹ 13.58 crore (**Annexure-5.09**). The calculation of interest was based on the rate prescribed in the Licence agreement i.e., 2 per cent above the Prime Lending Rate of State Bank of India existing as on beginning of the financial year and the period considered for calculation was from the end of the concerned financial year to March 2016. The interest has been compounded monthly as prescribed in the Licence Agreement.

## 5.5 Disclosures in the Statement of Revenue and Licence fee (AGR statements)

The UASL Agreement stipulated that the accounts of the operator Company should be certified by its Statutory Auditor. Concurrently the Agreement also provided distinct and specific norms/guidelines for recognition and reporting of revenue by the licensees from the licenced activity. These norms, detailed in the Annexure–III of UAS Licence agreement, stipulated disclosure of important information like amount billable for the period, details of discounts/rebates, Total Airtime Units (Metered Units) for home and visiting subscribers and unbilled numbers (e.g. service connections) etc. The norms/guidelines read along with Clauses 20.2 and 20.6 of licence agreement would clearly indicate that while it was the prerogative of the licensee company to prepare their accounts complying with the provisions of the Companies Act, acceptable Accounting Standards etc., the AGR of the licensee company, for the purpose of payment of revenue share, would be computed as per the definition of revenue adopted in the UAS Licence.

- The Agreement also stipulated that the *Licensee shall be obliged to send to the Licensor a certified statement sworn on an affidavit, by authorised representative of the company, containing full account of Revenue as defined in Condition 19 for each quarter separately along with the payment for the quarter.* The Statutory Auditor of the licensee, preparing the accounts in accordance with the provisions in the Company’s Act/ relevant Accounting standards etc., should also give a confirmation to the effect that the Statement of Revenue and Licence Fee has been *prepared in accordance with the norms/guidelines contained in the Licence agreement (Appendix -1 to Annexure –II).*
- Instances of understatement of revenue as brought out in the report would confirm that the revenue recognised for payment of licence fee and SUC by QTL were not in line with the licence conditions nor the preparation of accounts was fully in compliance with the norms prescribed by DoT. Though it was stated by the Management that revenue was booked net of discounts its details were never seen indicated in the Annual Accounts of QTL as required by the licence agreement. The Management also informed that that billable revenue was shown as Gross in line with AS-9 and no discount was offered on the billable amount. The stand of the Management was not tenable because as per the guidelines for preparation of accounts the service income of the licensee had to be shown gross and details of discount/rebate indicated separately. Reluctance of the licensee to share/disclose all the requisite information with the licensor was not seen addressed by DoT. Even though computation of the GR was not in compliance with the licence agreement the Statutory Auditors had always certified that the accounts were prepared in

accordance with the guidelines/norms contained in the Licence Agreement. Moreover, the licence agreement stipulated that the licensee companies had to send to the DoT a certified statement sworn on an affidavit, by authorized representative of the company, containing full account of Revenue as defined in condition 19 for each quarter separately along with the payment which the company failed to comply with and DoT on its part did not take any proactive steps to ensure that the licensees disclose their revenue as stipulated in the licence agreements. Even though the Offices of Controllers of Communications Accounts have been established for confirming the correctness of deductions claimed by the Operators to arrive at their AGR, the systems put in place to ensure that the GR was reported in accordance with the license conditions needed strengthening.

## 5.6 Response of DoT/QTL to the audit observations

Audit observations on the revenue share payable by M/s QTL were communicated to DoT and QTL during December 2016 for their further comments. QTL had reiterated once again (January 2017) most of their submissions made in reply to audit observations issued during the course of premises audit.

DoT stated (February 2017) that

- The basic definition of GR and AGR was challenged by the TSP's in 2002-03. Since then, there has been protracted litigation and is continuing till date.
- DoT is presently in appeal against the TSPs in the Supreme Court and as per the orders of the SC the department had been permitted to issue demands to the TSPs based on its understanding of the Licence Agreement.
- Demands would be raised based on the final figures reported by CAG, as per the Licence agreement and Policy decisions of DoT.

The response of DoT proves that though the revenue share regime was introduced as part of NTP-1999, the Department has not been able to realise its due revenue share as envisaged in the Licence agreement even after more than 17 years of its implementation.

It would be pertinent to mention here that when the Government decided to reduce the LF for all operators by two per cent effective from April 2004, DoT expected that the reduction would prompt operators to withdraw the challenges against the Government. However, the reduction in LF did not have the expected impact and the operators continue to institute litigations against the Government challenging the definition of GR/AGR and demand notes. Thus the PSP got the benefit of reduction in rate of LF but the Government didn't get the reciprocal benefit of reduction in litigations.