
Prelims and Mains focus: about the SC judgement and its implication; about AGR dispute

News: The Supreme Court pulled up mobile service operators and the department of telecommunications (DoT) for failing to comply with its verdict, which mandated telecom companies to pay the adjusted gross revenue (AGR) dues of over Rs.1 trillion to the DoT by 23 January, 2020.

Background

- The telecom sector was liberalised under the National Telecom Policy, 1994 after which licenses were issued to companies in return for a fixed license fee. To provide relief from the steep fixed license fee, the government in 1999 gave an option to the licensees to migrate to the revenue sharing fee model.

- Under this, mobile telephone operators were required to share a percentage of their AGR with the government as annual license fee (LF) and spectrum usage charges (SUC). License agreements between the Department of Telecommunications (DoT) and the telecom companies define the gross revenues of the latter. AGR is then computed after allowing for certain deductions spelt out in these license agreements. The LF and SUC were set at 8 per cent and between 3-5 per cent of AGR respectively, based on the agreement.

- The dispute between DoT and the mobile operators was mainly on the definition of AGR. The DoT argued that AGR includes all revenues (before discounts) from both telecom and non-telecom services. The companies claimed that AGR should comprise just the revenue accrued from core services and not dividend, interest income or profit on sale of any investment or fixed assets.

- In 2005, Cellular Operators Association of India (COAI) challenged the
government’s definition for AGR calculation.

- In 2015, the TDSAT (Telecom Disputes Settlement and Appellate Tribunal) stayed the case in favour of telecom companies and held that AGR includes all receipts except capital receipts and revenue from non-core sources such as rent, profit on the sale of fixed assets, dividend, interest and miscellaneous income.

- However, setting aside TDSAT’s order, Supreme Court on October 24, 2019 upheld the definition of AGR as stipulated by the DoT.

**Why is it important?**

- The definition of AGR has been such a contentious issue because it has huge financial implications for both telcos and the government. The revenue shared by telcos with the government goes into the consolidated fund of India. It was estimated, after the SC’s judgment, that the telecom operators owe the government about Rs.92,000 crore in back charges, interest and penalties on license fee alone.

- While the government has been deprived of the extra revenue, the financial implications for telecom companies — who now have to cough up overdue amounts piled up for years — are serious too. Especially at the current juncture, when profits for telcos are under pressure from severe competition and the falling ARPU (average revenue per user).

**Implications of the SC judgement**

The development comes as a fresh blow for Vodafone Idea—once India’s largest telco by subscriber base. The company is in a parlous state after an over-three-year battle in the hyper-competitive telecom sector, which has shrunk its revenue streams and saddled it with debt.