



**Vadodara Mahanagar Seva Sadan**  
Khanderao Market,  
Vadodara-390 001.

PBX : 2433116-2433118

2433388-2433366

FAX : (0265) 2433060

-પુલો/ભાગ/રૂફિક વિભાગ

જામ નં - 5239

તારીખ - 5/12/2013

5.12.2013

Ravi Communication Private Limited  
401 Safron Building  
Fatehgunj Junction  
Vadodara 390 005

**Sub: Termination of Concession Agreement dated 3.08.2011**

**Ref: (i) Preliminary Notice for Payment of Advertisement Premium dated 17.09.13**  
**(ii) Your letter dated 24.09.2013 in response to preliminary notice**  
**(iii) Termination Notice for non-payment of advertisement premium dated 30.10.2013**  
**(iv) Your letter dated 3.12.2013**

Sir,

Vadodara Mahanagar Seva Sadan has awarded contract to you for construction and erection of traffic signs in the form of over-head gantries, small sign boards and direction boards at various locations in the City of Vadodara. A formal contract has been drawn up and executed on 3.08.2011. The terms and conditions contained in the said Concession Agreement govern the relations between the parties.

In terms of the Concession Agreement, you are obliged to pay to the Corporation advertisement premium/royalty. Clause 6.1 of the Agreement stipulates that you shall pay to the Corporation "the advertisement premium at the time of completion of all the signages or 4 months whichever is earlier, the remaining payments shall be paid in accordance with Schedule VI." Schedule VI contains the royalty payment schedule. It reads that "the Concessionaire has agreed to pay the Royalty Payment of Rs. 3000 per Sq. mtr per year at incremental rate of 5% per annum basis as a Royalty on the available space for advertisement as per the terms and conditions of the Tender". It further reads that the "Royalty Payment starts from the date of completion of the Fabrication and installation of Signage's or 4 Months whichever is earlier" and that "the concessionaire agreed to pay the royalty amount on quarterly basis" as per the payment schedule contained therein. The payment schedule has been prepared taking the agreement date as 10.06.2011 and as agreed by the parties. Accordingly, the royalty became due and payable by you commencing from either 04 months therefrom, unless you completed the work of fabrication and installation of the signs prior thereto. Indisputably, the work of fabrication and installation of the signs was not completed

prior to expiration of 04 months from the date of agreement, and hence your liability to pay the royalty amount commenced from 11.10.2011.

Despite you becoming liable to pay the royalty amount with effect from 11.10.2011, it is a matter of record that you started making payment of royalty from 16.07.2012. Therefore, by notice dated 17.09.2013 you were called upon to make payment of royalty for the period between 11.10.2011 to 12.07.2012 amounting to Rs. 59,54,017/- together with cumulative interest at the rate of 1.5% per month as per the agreed terms of the contract within a period of 07 days from the receipt of the said notice.

You have written a letter dated 24.09.2013 in response to the said show cause notice wherein you have denied your liability to make such payment on the ground that the designs for the gantry were approved late by the Corporation, that you could commence work from 12.03.2012 and hence were liable to make payment of advertisement premium/royalty only from the month of July 2012. You have made a reference to Clause 5.2.1(c) of the Agreement in support of your say that you are not liable to make payment of the royalty from 11.10.2011.

Since no payment was made by you of the advertisement premium/royalty as demanded in terms of the agreement within the time period granted to you for making such payment, a notice was issued to you on 30.10.2013 calling upon you to show cause as to why the Concession Agreement dated 3.08.2011 be not terminated for breach of terms of the said agreement and the deficient amount of royalty together with interest and other damages be not recovered from your company. The said notice was received by you on 9.11.2013. As you did not submit any reply to the said notice despite lapse of reasonable time, another communication dated 30.11.2013 was sent to you giving you one more opportunity to personally appear and advance submissions on 3.12.2013 in connection with the notice dated 30.10.2013 and show cause as to why the Concession Agreement dated 3.08.2011 be not terminated for breach of terms of the said agreement. You were also permitted to give your written response to the said show cause notice. In the said notice, it was specifically stated that in the event of your non-appearance and/or non-receipt of any reply from you, the Corporation shall take decision in accordance with the terms of the agreement.

In response to the said notice dated 30.11.2013, you have submitted a letter dated 3.12.2013 to the Corporation informing the Corporation about pendency of Special Civil Application No. 16943 of 2013 before the High Court of Gujarat and therefore not to proceed with the show cause notice.

You did not appear before the Corporation and/or submit any written response to the said termination notice even though you were granted sufficient and reasonable opportunity of showing cause to the notice. Nonetheless, in the interest of justice, the Corporation has taken into consideration your reply dated 24.09.2013 containing reasons cited by you for denial of your liability to pay the royalty from 11.10.2011.

Clause 5.2.1(c) falling under the heading – Operational Obligations/Design provides that within 07 days of submission of design of the installation facilities by you to the Corporation, the Corporation shall review the same and convey its acceptance for any one design or suggest changes, revision or modification in the same. If the Corporation “delays in responding towards the design submitted for more than 7(seven) days from its receipt, then the Facility Manager shall get an extension on Scheduled Completion Date for installation Facilities equivalent to the number of days of delay after the 7 (seven) days period, subject to the discretion of VMSS.”

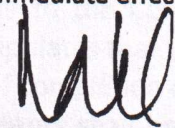
Essentially what the clause provides is the postponement of the Scheduled Completion Date in the event of delay caused in approving the design at the hands of the Corporation. The completion date has relevance for the purpose of commencement of the concession period but has got nothing to do with the payment of royalty. Parties, by their free will and choice, have agreed to the term in the contract requiring payment of royalty either from date of completion of the installation or 04 months from the date of agreement, whichever is earlier.

Even otherwise, the words used in Schedule VI – “royalty payment starts from the date of completion of the Fabrication and installation of Signage’s or 4 Months whichever is earlier” themselves envisage a situation where the work of fabrication and installation of signs may not be completed within a period of 04 months and yet the Concessionaire becomes liable to pay the royalty amount to the Corporation. Therefore, reliance being placed by you on Clause 5.2.1(c) of the Agreement to deny your liability to make payment of royalty is misconceived. And the dispute being raised by you in this behalf does not appear to be *bona fide*.

No other cause has been shown by you in response to the termination notice dated 30.10.2013.

Clause 10.1 (a) of the Agreement states that failure on your part to pay the agreed advertisement premium payment “in accordance with the payment schedule mentioned under Schedule VI” shall constitute an Event of Default. Sub clause (m) further provides that not remedying any breach within 7 (seven) days of issuance of preliminary notice stating such breach shall also constitute an Event of Default. You have defaulted in making payment of royalty as per the agreed payment schedule. You have also failed to remedy the default within seven days of issuance of preliminary notice calling upon you to make payment of royalty. Both these violations constitute breach of material terms of the agreement. You have failed to fulfil your promise in time and, therefore, the Corporation thinks it fit to terminate the contract.

Under the circumstances, it is deemed expedient and in the interest of the Corporation to terminate the Concession Agreement dated 3.08.2011 in view of your failure to pay the agreed advertisement premium in accordance with the payment schedule mentioned under Schedule VI despite grant of reasonable opportunity. Accordingly, the Concession Agreement dated 3.08.2011 is terminated by the Vadodara Mahanagar Seva Sadan with immediate effect, that is from 5.12.2013.



Manish Bhardwaj  
Municipal Commissioner  
Vadodara Mahanagar Seva Sadan

- COPY TO
- 1) Mr. Kishan Vasant Rao Kadam  
(Director Ravi Comm. Pvt. Ltd)
  - 2) Nupur Jayprakash Mahant  
(Director Ravi Comm. Pvt. Ltd)  
Ahmedabad.
  - 3) Shital Signs Pvt. Ltd.  
Ahmedabad.
  - 4) Sun Communication  
Baroda.

Received

5/12/13  
4:40 PM