

**Government of India
Department of Telecommunications
Licensing Finance Policy Wing
Sanchar Bhawan, Ashoka Road, New Delhi 110001**

No. 1-9/2019-LFP-I

Date:18.10.2022

Office Memorandum

Sub: Adjustment of Surplus License Fee (LF) and Spectrum Usage Charges (SUC)

Kindly refer to the OM no 1-9/2019-LFP-I dated 09.10.2019 on the aforesaid subject.

2. The undersigned is directed to inform that

i. The Hon'ble Supreme Court has now pronounced the judgment in AGR matter on 24.10.2019, setting the questions of law involved therein.

ii. The competent authority has decided to allow surplus adjustment of LF/ SUC in the same circle/same license authorization and also across circles.

iii. The detailed Standard Operating Procedure to be followed by licensees and assessing authorities for surplus adjustment is enclosed as Annexure- A to this OM.

This issues with the approval of competent authority.

**Sathish Kumar R
Director (LFP-II)**

Encl: As Above

To,

1. CGCA /Pr.CCAs / CCAs
2. DDG (LFP)/ DDG (LFA)/ DDG (WPF)

Copy to:

1. Sr. PPS to Secretary (T), Sr. PPS to Member (F), Sr.PPS to Advisor (F)
2. COAI/ISPAI/VNOAI

Standard Operating Procedure (SOP) for surplus adjustment in License Fee and Spectrum Usage Charges :

1. This SOP is issued for Surplus adjustment of License Fee (LF) and Spectrum Usage Charges (SUC). This SOP will come into effect from date of issue of this order i.e. any surplus arising during the assessment of FY 2021-22 or onwards shall be covered by this SOP.

2. The Term Surplus for the purpose of this SOP, would denote the amount that is paid by the licensee over & above the LF/SUC dues calculated by DOT on the basis of Adjusted Gross Revenue (AGR) finalized by Assessing authority (LFA wing or Pr.CCA /CCA offices) for a financial year.

3. All surplus for previous period shall be adjusted as per LFP OM no 1-9/2019-LFP-I dated 09.10.2019 and considering below additional criteria:

a) Surplus adjustments for the financial years and circles for which AGR dues are already finalized in Hon'ble Supreme Court order dated 1.9.2020 will not be permitted.

b) Surplus adjustments will not be permitted for licensees under insolvency proceedings.

4) Representations if any received on the method of adjustment for previous period will be dealt with on a case to case basis.

5. The following procedure will be adopted for adjustment of surplus amount in License Fee and Spectrum Usage Charges

a) Adjustment of LF surplus against LF demands and SUC surplus against SUC demands will be permitted in the same circle and also across circles. Surplus SUC amounts of access spectrum can be adjusted against MWA/MWB/E Band carrier SUC & vice-versa.

b) The surplus amount once adjusted as per this SOP shall be final and no longer be available for re-adjustment or revision. Also, the LF/SUC assessment for the Financial Year (in which surplus had arisen) is subject to revision of LF/SUC dues as per the outcome of special audit/ CAG audit. In case re-assessment due to special audit/CAG audit results in a shortfall, the dues shall be treated as fresh dues payable by the licensee along with interest, penalty and interest on penalty as applicable. In case of above reassessment resulting in additional surplus amount, such amount shall be treated as per this SOP.

Competent Authority

c) In case of centralized licensees, where LF assessment is carried out by LFA, wing DOT HQ, DDG(LFA) shall be the authority to allow License fee surplus adjustment for intra-circle as well as inter circle adjustments.

d) In case of decentralized licensees, where LF assessment is carried out by Pr.CCA/CCA offices, Pr.CCA of the concerned zone under which the CCA office falls, shall be the authority to allow License fee surplus adjustment for intra- circle as well as inter circle adjustments.

e) For cases pertaining to adjustment of Surplus SUC, Pr CCA of the concerned zone under which the CCA office falls, shall be the authority to allow intra circle SUC adjustments.

f) JtCGCA (Revenue) shall be the authority to permit surplus adjustment in case of inter circle SUC adjustments.

g) A centralized MIS (in form of a sub ledger) will be maintained for reconciliation purposes and to monitor surplus adjustments. This MIS will be made available in SARAS. The indicative format of the MIS is provided in Annexure I of this SOP.

h) Surplus amount shall be adjusted against past dues of previous financial years, with date of payment of surplus amount as date of surplus. In case of adjustment for a succeeding financial year, the date of surplus amount shall be 1st April of the FY or date of surplus payment whichever is later.

i) On adjustment of surplus, reassessment of the financial year in which it is adjusted will be immediately carried out and revised demand notice issued.

Surplus Adjustment Illustrations:

Surplus will be calculated during assessment for a FY. Even though payments are made quarter wise, assessment is done for a Financial year. The surplus in the context of this SOP is surplus which occurs after assessment at the end of Financial year. The date of surplus will be the date of payment which comprise the surplus amount starting from the last payment.

For example: If for FY 21-22, last payment is made on 15th April 2022 and during assessment for FY surplus is determined, then the date of payment will be 15th April if surplus is less than or equal to payment made on 15th April. If surplus amount is more than the payment on 15th April 2022, then the dates of surplus will be 15th April and the date of payment prior to 15th April 2022, which comprise the surplus.

Similarly, if for example a licensee makes last payment on 15th Jan 2022 for FY 21-22 (covering 3rd quarter and anticipated 4th quarter dues) then in such cases date of surplus will be date of last payment i.e 15th Jan 2022.

Inter year adjustment:

Adjustment to a subsequent FY:

If the surplus occurring on 15th Jan 2022 is adjusted in FY 22-23, then during assessment of FY 2022-23 this surplus amount will be taken as payment made on 1st April 2022.

If the surplus occurring on 15th April 2022 is adjusted in FY 22-23, then during assessment of FY 2022-23 this surplus amount will be taken as payment made on 15th April 2022.

Annexure I

LF Surplus Adjustment Details

										Surplus Adjustment Details				
Company name	License Authorisation	Financial year	Name of Circle	Total LF Payable as per assessment order(including interest,penalty, interest on penalty	Total LF payment Received against dues for FY	Whether Surplus Exists after assessment(Y or N)	Amount of Surplus	Date of surplus(can be multiple dates)	Whether surplus has been adjusted (Y or N)	License Authorisation	Name of Circle	Financial year	Amount of Surplus Adjusted	Remarks

SUC Surplus Adjustment Details

										Surplus Adjustment Details					
Company name	License Authorisation	Financial year	Name of Circle	Total SUC Payable as per assessment order(including interest,penalty, interest on penalty	Total SUC payment Received against dues for FY	Whether Surplus Exists after assessment (Y or N)	Amount of Surplus	Date of surplus(can be multiple dates)	Whether surplus has been adjusted (Y or N)	License Authorisation	Name of Circle	Financial year	Band in which Surplus adjusted (Access, MWA,MWB,E Band)	Amount of Surplus Adjusted	Remarks