

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

DFR No : 125 of 2025 & IA No. 489 OF 2025

Dated: 19th May, 2025

Present : Hon`ble Mr. Justice Ramesh Ranganathan, Chairperson
Hon`ble Ms. Seema Gupta, Technical Member (Electricity)

In the matter of:

India Power Corporation Limited (IPCL) Appellant(s)

Versus

West Bengal Electricity Regulatory Commission Respondent(s)

Counsel on record for the Appellant(s) : Arijit Maitra
Pallavi Bagchi Maitra
for App. 1

Counsel on record for the Respondent(s) : C.K. Rai
Anuradha Roy
Vinay Kumar Gupta
for Res. 1

ORDER

IA No. 489 OF 2025

(for condonation of delay in filing the appeal)

If the delay is computed from the date on which the original order was passed, then the delay is of 1897 days. If computed from the date of the review order, the delay is of 242 days. The original APR order was passed on 02.12.2019, aggrieved by which the Appellant filed a Review Petition on 03.02.2020. The Review Petition was eventually disposed of on 13.06.2024, and the present appeal was filed on 27.03.2025.

Ordinarily, the period spent in prosecuting the Review Petition is required to be excluded in computing the delay in filing the appeal. If so computed, the delay must be reckoned only from the date the review order was passed. Consequently, the delay in filing the present appeal would be of 242 days.

The explanation furnished for this period of delay of 242 days is that the order passed in a tariff Petition/APR order/true up order would have a cascading effect, and consequently, the delay should be condoned; and secondly that limitation of 45 days specified under Section 111(2) of the Electricity Act is wholly inadequate.

Both these contentions do not merit acceptance. Accepting the first contention, regarding cascading effect, would require the limitation stipulated under Section 111 (2) of the Electricity Act to be ignored in each and every appeal filed against a tariff order. Such a construction of Section 111(2) is impermissible. The other contention regarding insufficiency of 45 days' time stipulated in Section 111 (2) to prefer an appeal can be addressed only to Parliament and not to this Tribunal, as this Tribunal is bound by the provisions of the Electricity Act, in terms of which it is required to function.

While the delay of 242 days is not insignificant, we are of the view that the Appellant should not be denied an opportunity of having their appeal heard on merits *albeit* on payment of costs, which we quantify as Rs.1,00,000/- (rupees one lakh only) to be paid to the Central Transmission Utility of India Limited (CTUIL) within four weeks from today. The Appellant shall file proof of payment of costs in the Registry within two weeks thereafter. The delay is condoned subject to compliance with the aforesaid directions.

Needless to state that, in case the aforesaid costs are not paid within four weeks from today and an affidavit of proof of payment is not filed in the Registry within two weeks thereafter, the application, for condonation of delay in filing the appeal, shall stand dismissed automatically, and the Appeal shall stand rejected. The I.A. is, accordingly, disposed of.

The Appellant shall also intimate the CTU of the Appeal No. and the date of the Order, in terms of which costs are being paid.

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Six weeks' time is granted to file reply. Rejoinder, if any, may be filed within four weeks thereafter.

Subject to compliance with the aforesaid directions and after pleadings are complete, Registry to verify the same, and then include the Appeal in the '**List of Finals**' to be taken up from there, in its turn.

(Seema Gupta)
Technical Member (Electricity)

(Justice Ramesh Ranganathan)
Chairperson

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