

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

COURT-II

(VACATION BENCH)

**IA NO. 889 OF 2021 IN
DFR NO. 215 OF 2021 &
IA NOS. 888, 890 & 891 OF 2021**

Dated: 11th June, 2021

**Present: Hon'ble Mr. Ravindra Kumar Verma, Technical Member
Hon'ble Mr. Justice R.K. Gauba, Judicial Member**

In the matter of:

**AMR Power Private Limited
Vs.**

.... Appellant (s)

Mangalore Electricity Supply Co. Ltd. & Anr.

.... Respondent(s)

Counsel for the Appellant (s) : Mr. Aditya Narayan
Mr. Rohit Sharma
Ms. Purna Prakash
Ms. Lalia Elizabeth Philip
Mr. Rounak Nayak

Counsel for the Respondent (s) : -----

ORDER

This matter has been taken up by video conference mode on account of pandemic conditions, it being not advisable to hold physical hearing.

IA NO. 889 OF 2021

[For Urgent Listing]

The matter having been listed before us, the application filed by the appellant having served its purpose stands disposed of.

IA NO. 891 OF 2021

[Appl for exemption from filing legible copy]

The learned counsel for the applicant/appellant assures that the legible copy shall be filed within three weeks. Subject to due compliance, exemption till then is granted. The application is disposed of.

**DFR NO. 215 OF 2021 &
IA NOS. 888 & 890 OF 2021**

As per office report, defects are yet to be cured by the applicant/appellant. The learned counsel for the applicant/appellant undertakes to do the needful within a week. Subject to strict compliance, issue notice to the respondents on IAs as well as the main appeal returnable before the Ld. Registrar on 02.09.2021.

The respondent will be obliged to file replies within four weeks on service of notice.

The appellant seeks to press the application for *ad-interim* relief (IA no. 888 of 2021). We have heard the learned counsel for the appellant at length and during the hearing we allowed him time to seek fresh instructions. The hearing was resumed after a recess and concluded.

The appeal at hand challenges the Order dated 23.03.2021 passed by the Karnataka Electricity Regulatory Commission (*KERC*) in O.P. no. 192 of 2017. It appears, by the said petition, the appellant had claimed damages / compensation to be awarded against the first respondent i.e. Mangalore Electricity Supply Co. Ltd. (*MESCOM*) on the basis of prevalent market price for the power supplied to the first respondent during the period from 22.07.2011 to 16.10.2014, and interest accrued thereupon. It appears, KERC by the impugned Order has granted part relief, the disallowances of the remainder being the subject matter of challenge by the appeal at hand. What is, however, the present concern of the appellant is that by one of the directions in the operative part of the impugned decision the appellant has been called upon to pay deficient court fee calculated in the sum of Rs.95,10,205/- within a period of three weeks. That period is over. If the impugned decision is to be read as a whole, on account of default in payment of the deficient court fee, the appellant would be treated as having forfeited

the benefit of the relief that was granted. The appellant, however, pleads that on account of pandemic conditions, and the consequent lockdowns imposed across the country, it has been under acute financial duress. It also questions the demand of the deficient court fee stating that it is calculated on the relief that was claimed by the original petition. Its contention is that court fee could have been directed to be paid only on the amount awarded. Given the present status of these proceedings, we refrain from recording any views either way on this contention.

However, having regard to the fact that the pandemic conditions have put almost everyone in financial distress, we feel that it would be unjust and improper *prima-facie* to render the appellant without remedy/relief on account of default in timely payment of court fee as determined by the Commission.

In these facts and circumstances, subject to objections that may be taken by the opposite party, and without prejudice to the contentions of any side, we direct that the period granted for compliance with the direction for payment of deficient court fee shall stand extended by a period of three weeks from today, as is being now sought. Needless to add in case of compliance, necessary follow-up in terms of the impugned Order will have to be taken up by all concerned.

The above order is granted, subject to strict compliance by the appellant with the provision contained in Order XXXIX Rule 3 of CPC within three days from today.

(Justice R.K. Gauba)
Judicial Member

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(Ravindra Kumar Verma)
Technical Member