COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

DFR No : 273 of 2025 & IA No. 1153 OF 2025 & IA No. 1154 OF 2025

Dated: 1st September, 2025

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

In the matter of:

Maharashtra State Electricity Distribution Company Limited	....	Appellant(s)
Versus		
Sai Wardha Power Generation Limited & Ors.	....	Respondent(s)

Counsel on record for the Appellant(s) : Udit Gupta
Vyom Chaturvedi
Pragya Gupta
Sneha Singh
Nishtha Goel
Deepshikha Kumar
for App. 1

Counsel on record for the Respondent(s) :
for Res. 1

ORDER

IA-1153/2025
(For condonation of delay in filing the Appeal) (1224 days)

This application is filed seeking condonation of the delay of 1224 days in filing the present appeal ie a delay of nearly three and half years. The limitation prescribed, under Section 111(2) of the Electricity Act, for filing an appeal before this Tribunal is 45 days from the date of receipt of a copy of the order sought to be appealed against. The proviso to Section 111(2) of the Electricity Act enables this Tribunal to entertain an appeal, after expiry of the said period of forty-five days, only if it is satisfied that there was sufficient cause for not filing the appeal within the period of limitation of forty-five days.

The law of limitation is enshrined in the legal maxim *interest reipublicae ut sit finis litium* (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of parties. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time. (**Brijesh Kumar v. State of Haryana: (2014) 11 SCC 351).** Expiration of the period of limitation, prescribed for making an appeal, gives rise to a right in favour of the decree-holder to treat the decree as binding between the parties. When the prescribed period of limitation has expired, the decree-holder has obtained a benefit under the law of limitation to treat the decree as beyond challenge, and this legal right which has accrued to the decree-holder by lapse of time should not be lightly disturbed. (**Ramlal v. Rewa Coalfields Ltd., 1961 SCC OnLine SC 39 : AIR 1962 SC 361)**. As certain rights had accrued to the Respondents on expiry of the period of limitation, it was open to them thereafter to proceed on the basis that the impugned order had attained finality. It is in order to displace this right of the respondents to a limited extent, that Parliament has stipulated, in the proviso to Section 111(2) of the Electricity Act, that appeals can be entertained after the period of limitation of 45 days on this Tribunal recording its satisfaction that the Appellant had "*sufficient cause"* for not filing the appeal within time.

The crucial words in the proviso to Section 111(2) are *"if it is satisfied that there was sufficient cause for not filing it within that period".* In other words, it is only if this Tribunal were to be satisfied, for just and valid reasons, that there was sufficient cause for not filing the appeal within the period of limitation, that the delay can be condoned. The word "cause" in the proviso to Section 111(2) is preceded by the word "sufficient". It is not every cause for the delay which can be condoned, and this Tribunal is required to record its satisfaction that there was sufficient cause, justifying condonation of delay. Merriam Webster Dictionary defines the word *"sufficient"* to mean enough to meet the needs of a situation or a proposed end. "Sufficient cause" means an

adequate and enough reason which prevented the appellant to approach the court within limitation. (**Basawaraj v. Land Acquisition Officer, (2013) 14 SCC 81)**. Consequently, the cause which the applicant is required to show should not only be adequate enough to justify his failure to file an appeal within the period of limitation, but also such as would justify condonation of the delay in invoking the appellate jurisdiction of this Tribunal beyond the stipulated period of limitation of 45 days.

The discretion conferred on this Tribunal under the proviso to Section 111(2) of the Electricity Act, to condone the delay, should be exercised to advance substantial justice when neither negligence nor inaction nor want of bona fides is imputable to the applicant. It is not every cause, but only a cause which is sufficient which would justify condoning the delay in invoking the appellate jurisdiction. If sufficient cause is not established, nothing further needs to be done - the application for condoning delay has to be dismissed on that ground alone. If sufficient cause is shown then this Tribunal should consider whether, in its discretion, it should condone the delay. All relevant facts such as diligence of the party or its bona fides may fall for consideration at this stage. This cannot, however, justify an enquiry as to why the party was sitting idle during all the time available to it. (**Ramlal v. Rewa Coalfields Ltd., 1961 SCC OnLine SC 39 : AIR 1962 SC 361)**.

The law of limitation, a substantive law, has definite consequences on the rights and obligations of a party. Once a valuable right has accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly as a result of negligence, default or inaction of that party. Justice must be done to both parties equally, then alone the ends of justice can be achieved. If a party has been thoroughly

negligent in implementing its rights, and availing its remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to him in law as a result of his acting vigilantly. The Court should not give such an interpretation to the provisions which would render the provision ineffective or odious. (**V. Balwant Singh v. Jagdish Singh, (2010) 8 SCC 685).**

Sufficient cause is a condition precedent for exercise of discretion by the court for condoning the delay, and when the mandatory provision is not complied with and the delay is not properly, satisfactorily and convincingly explained, the court cannot condone the delay on sympathetic grounds alone. (**Esha Bhattacharjee v. Raghunathpur Nafar Academy: (2013) 12 SCC 649; Brijesh Kumar v. State of Haryana, (2014) 11 SCC 351).** The party should show that, besides acting bona fide, it had taken all possible steps within its power and control and had approached the court without unnecessary delay. The test of whether or not the cause shown for the delay is sufficient is to see whether it could have been avoided by the party by the exercise of due care and attention. (**Advanced Law Lexicon, P. Ramanatha Aiyar, 3rd Edn., 2005;** (**V. Balwant Singh v. Jagdish Singh, (2010) 8 SCC 685).**

The law of limitation may harshly affect a particular party, but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation. The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means “the law is hard but it is the law”, stands attracted in such a

situation. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. An unlimited limitation would lead to a sense of insecurity and uncertainty and, therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches. (**Basawaraj v. Land Acquisition Officer, (2013) 14 SCC 81).**

Where a case has been presented in the court beyond limitation, the applicant has to explain to the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court would be justified in condoning an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time, condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature. **(P. Ramachandra Rao v. State of Karnataka: (2002) 4 SCC 578; Basawaraj v. Land Acquisition Officer, (2013) 14 SCC 81).**

As the sufficient cause to be shown by an applicant, for the delay to be condoned, would depend on the facts and circumstances of each case,

this Tribunal would not be justified in applying a uniform criterion, or adopting a single yardstick, to determine whether the cause shown is sufficient to condone the delay in filing the appeal. The test of "sufficient cause" would vary from one case to another.

The explanation furnished by the appellant, for the inordinate delay of 1224 days in filing the present appeal, is that the issue of CGP status of Sai Wardha Power Generation Limited, for the earlier years FY 2011-12 to FY 2017-18, is still pending adjudication before the Supreme Court in the Civil Appeals filed by the Appellant against the judgements of this Tribunal; the present appeal, which was initially heard as part of a batch of appeals by this Tribunal, was later remanded to the Commission on 02.09.2021 for its de nova adjudication; after an order of remand was passed in the present case on 02.09.2021, the remaining appeals, relating to FY 2012-13 to FY 2017-18, were dismissed on 26.11.2021 relying on the judgment of this Tribunal in **TN Power Producers Association Vs. TNERC;** aggrieved both by the judgment of this Tribunal in **TN Power Producers Association,** and the judgment in the batch of appeals dismissed on 26.11.2021, the Appellant herein had carried all the matters in appeal to the Supreme Court; during the pendency of these appeals before the Supreme Court, MERC passed an order, in Remand Case No. 116 of 2018, on 02.02.2022 allowing the Petition filed by the first Respondent herein; since their appeals were pending before the Supreme Court both against the judgment of this Tribunal in **TN Power Producers Association,** and the appeals dismissed by this Tribunal on 26.11.2021, the Appellant herein did not prefer an appeal against the order of the MERC dated 02.02.2022; later the Supreme Court delivered its judgment in **Dakshin Gujarat Vij Company Ltd. Vs. Gayatrishakti Paper and Boards Limited and Others** on 09.10.2023, thereby settling

the law on the CGP status; since the appeals filed by the Appellant, regarding the CGP status of Sai Wardha Power Generation Limited for the years 2011-12 to 2017-18, were still pending before the Supreme Court, the Appellant did not prefer an appeal against the remand order passed by the MERC on 02.02.2022, even after the Supreme Court had delivered judgment in **Gayatri Shakti Paper and Boards Limited** on 09.10.2023; and, since the appeals filed by the Appellant have not yet been taken up for hearing by the Supreme Court, the Appellant has now filed the present Appeal on 25.07.2025, along with an application to condone the delay of 1224 days in filing the said Appeal.

The delay in filing the present appeal, if computed from the date the impugned order was passed by the MERC on 02.02.2022, is of 1224 days ie a delay of around three and half years. Even if the delay were to be computed from the date on which the Supreme Court pronounced judgment, in **Gayatrishakti Paper and Boards Limited,** on 09.10.2023, the delay in filing the present appeal would still be of 610 days ie a delay of around one year and eight months.

The Appellant's contention that, since their appeals relating to the earlier years 2011-12 to 2017-18 are still pending adjudication before the Supreme Court, they did not prefer an appeal against the remand order dated 02.02.2022 even after the judgment, in **Gayatrishakti Paper and Boards Limited,** was delivered by the Supreme Court on 09.10.2023, would not constitute "sufficient cause for condonation of delay in filing the appeal" since, admittedly, the Civil Appeals filed by the Appellant herein, for the earlier financial years upto 2017-18, are still pending adjudication before the Supreme Court. As the present appeal has been filed, despite the fact that the afore-mentioned appeals are still pending before the Supreme Court, nothing prevented the appellant from

filing the present appeal within time even if their appeals were pending adjudication before the Supreme Court. It is evident, therefore, that failure of the Appellant to file the present appeal within time was not on account of the pendency of their other appeals before the Supreme Court.

In this context it is useful to note that an appeal to this Tribunal, in view of Section 111(3) of the Electricity Act, is akin to a first appeal, and lies both on facts and law. Conscious though it was of the fact that a first appeal to this Tribunal, involving examination both on facts and law, would take considerable time for its adjudication and final disposal, Parliament has, in its wisdom, stipulated, in Section 111(5) of the Electricity Act, that this Tribunal should endeavour to dispose of the appeals preferably within 180 days from the date of its institution. The proviso to Section 111(5) of the Electricity Act requires this Tribunal to record reasons in case it is not able to dispose of the appeal within 180 days of its institution. Parliament has, in its wisdom, fixed such a period, conscious as it was of the need to shorten the expensive litigation involved in the Power Sector, and to have contentious issues resolved speedily. Entertaining an appeal, which has been instituted with an inordinate and unexplained delay of nearly 3 ½ years, would defeat the very object and purpose for which such a time limit has been stipulated by Parliament under Section 111(5) of the Electricity Act.

The question whether the Appellant-applicant should be permitted to invoke the appellate jurisdiction of this Tribunal, despite an inordinate delay of nearly three and half years, merely because appeals, against the order of this Tribunal on the very same issue, are pending before the Supreme Court, should be considered in the light of the law declared by the Supreme Court in this regard.

In **U.P. Jal Nigam v. Jaswant Singh, (2006) 11 SCC 464**, the question which arose for consideration was whether, in the case of a person who is not vigilant of his rights and acquiesces with the situation, his writ petition can be heard after a couple of years on the ground that the same relief should be granted to him as was granted to a person similarly situated who was vigilant about his rights. The Supreme Court held that the statement of law had been summarised in Halsbury's Laws of England, para 911, p. 395 as follows: " in determining whether there has been such delay as to amount to laches, the chief points to be considered are: (1) acquiescence on the claimant's part; and (ii) any change of position that has occurred on the defendant's part; acquiescence in this sense did not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it, it is unjust to give the claimant a remedy where, by his conduct, he has done that which might fairly be regarded as equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted; in such cases lapse of time and delay are most material; and upon these considerations rests the doctrine of laches".

The Supreme Court further held that the respondents were guilty since they had acquiesced in accepting the retirement and did not challenge the same in time; if they had been vigilant, they could have filed writ petitions as others did in the matter; therefore, whenever it appears that the claimants lost time or had whiled it away and did not rise to the occasion in time for filing the writ petitions, then in such cases, the court should be very slow in granting the relief to the incumbent; secondly, the

question of acquiescence or waiver on the part of the incumbent should also be taken into consideration, whether other parties are going to be prejudiced if the relief is granted; and the court should not come to the rescue of such persons when they themselves are guilty of waiver and acquiescence.

In **Pathapati Subba Reddy v. LAO, 2024 SCC OnLine SC 513**, the Supreme Court held that, merely because some persons obtained relief in similar matters, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal; the delay is not liable to be condoned merely because some persons have been granted relief; and condonation of delay, in such circumstances, is in violation of the legislative intent or the express provision of the statute.

In ***"Wardha Solar (Maharashtra) Pvt. Ltd v. Central Electricity Regulation Commission & Ors***.,**"** (DFR No. 32 of 2024 dated 22.08.2024), this Tribunal passed an elaborate order rejecting the application to condone the delay of 838 days in filing the Appeal, among others, on this very same ground.

In "***Manchukonda Agrotech Private Limited v. Karnataka Electricity Regulatory Commission & Anr.",*** (DFR No. 188 of 2024 dated 02.09.2024)**,** this Tribunal observed as under:

"The Appellant-applicant cannot be permitted to invoke the appellate jurisdiction of this Tribunal, after an inordinate delay of one and half years, merely because an earlier appeal, instituted by them before this Tribunal, is pending. In ***U.P. Jal Nigam v. Jaswant Singh, (2006) 11 SCC 464****, the Supreme Court referred with approval to Halsbury's Laws of England,*

para 911, p. 395 wherein it was observed as follows: "In determining whether there has been such delay as to amount to laches, the chief points to be considered are: (1) acquiescence on the claimant's part; and (ii) any change of position that has occurred on the defendant's part; acquiescence in this sense did not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it; it is unjust to give the claimant a remedy where, by his conduct, he has done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted; in such cases lapse of time and delay are most material; and upon these considerations rests the doctrine of laches".

"This Tribunal would, therefore, not be justified in condoning the inordinate or unexplained delay of around one and half years, and in entertaining the present appeal, merely because an earlier appeal filed by the appellant is pending."

The law declared by the Supreme Court, in **U.P. Jal Nigam v. Jaswant Singh, (2006) 11 SCC 464** and **Pathapati Subba Reddy v. LAO, 2024 SCC OnLine SC 513**, is binding on all courts and tribunals in view of Article 141 of the Constitution of India. Further, in view of the earlier judgements in ***"Wardha Solar (Maharashtra) Pvt. Ltd v. Central Electricity Regulation Commission & Ors***.,**"** (DFR No. 32 of 2024 dated 22.08.2024), wherein this Tribunal had passed an elaborate order rejecting the application to condone the delay of 838 days in filing the Appeal on this ground, and in "***Manchukonda Agrotech Private Limited v. Karnataka Electricity Regulatory Commission & Anr.",*** (DFR No.

188 of 2024 dated 02.09.2024) wherein the application to condone the delay of one and half years was rejected on a similar ground, we may not be justified in condoning the inordinate and unexplained delay of nearly three and half years ie of 1224 days, and in entertaining the present appeal, merely because a similar issue is pending in appeal before the Supreme Court.

The Appellant, which had filed Civil Appeals before the Supreme Court, was aware, when the impugned order in the present appeal was passed on 02.02.2022, that a similar issue was pending adjudication before the Supreme Court, and ought therefore to have instituted the present appeal within the statutorily prescribed limitation of 45 days under Section 111(2) of the Electricity Act. Having failed to do so and, in as much as the explanation furnished for the inordinate delay in filing the present appeal of nearly three and half years, is wholly insufficient, we see no reason to condone the delay.

Let us now take note of the law declared by the Supreme Court in the three judgements relied on behalf of the Appellant ie (1) **Mool Chandra v. Union of India, (2025) 1 SCC 625;** (2) **Union of India v. Jahangir Byramji Jeejeebhoy, 2024 SCC OnLine SC 489;** and (3) **Sheo Raj Singh Versus Union of India & Anr. (Judgment of the Supreme Court in Civil Appeal No. 5867 Of 2015 dated 09.10.2023).**

In **Mool Chandra v. Union of India, (2025) 1 SCC 625,** the appellant had challenged the order passed by the Delhi High Court dismissing the writ petition and rejecting the Review Petition filed by him, and consequently affirming the order passed by the Central Administrative Tribunal, Principal Bench, New Delhi whereby the application for condonation of delay of 425 days in filing the OA, challenging the order imposing the penalty of stoppage of one increment with cumulative effect,

was dismissed. The delay was not condoned by the Central Administrative Tribunal on the ground that it was filed more than one year after the impugned order came to be passed.

It is in this context that the Supreme Court held that it is not the length of delay that would be required to be considered while examining the plea for condonation of delay; it is the cause for delay, which has been propounded, which will have to be examined; if the cause for the delay would fall within the four corners of "*sufficient cause*", the same deserves to be condoned irrespective of the length of the delay; however, if the cause shown is insufficient, the same would not be condoned irrespective of the period of delay; if negligence can be attributed to the appellant, then necessarily the delay which has not been condoned by the Tribunal and affirmed by the High Court deserves to be accepted; however, if no fault can be laid at the doors of the appellant and the cause shown is sufficient, then both the Tribunal and the High Court were in error in not adopting a liberal approach or justice-oriented approach to condone the delay; the delay of 425 days in filing the fresh OA had been succinctly explained by the appellant before the Administrative Tribunal, namely, that there was no intimation of withdrawal of the earlier OA by his counsel and the order of withdrawal does not reflect that such withdrawal was based on any memo duly signed by the appellant; and, further, the High Court had proceeded to confirm the order of the Tribunal on the footing that penalty imposed on the appellant is only a minor penalty, namely, withholding of one increment without cumulative effect, by completely ignoring the fact that, in the earlier round of litigation, it had been clearly held that punishment of dismissal imposed on the appellant was totally disproportionate to the alleged act.

As held by the Supreme Court, in **Mool Chandra v. Union of India, (2025) 1 SCC 625**, if the cause for the delay would fall within the four

corners of "*sufficient cause*", the same deserves to be condoned irrespective of the length of delay. If, on the other hand, the cause shown is insufficient, the delay would not be condoned irrespective of the period of delay. It is on being satisfied that *"sufficient cause"* was shown by the appellant, in belatedly invoking the jurisdiction of the administrative tribunal, that the delay of 425 days in filing the OA was condoned. Unlike in **Mool Chandra**, the explanation furnished by the Appellant herein for the delay of 1224 days in filing the present appeal does not constitute sufficient cause.

In this context, it must be borne in mind that the concept of liberal approach has to encapsulate the conception of reasonableness, and cannot be allowed a totally unfettered free play. The conduct, behaviour and attitude of a party, relating to its inaction or negligence, are relevant factors to be taken into consideration, as the fundamental principle is that courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go-by in the name of liberal approach. (**Esha Bhattacharjee v. Raghunathpur Nafar Academy: (2013) 12 SCC 649; Brijesh Kumar v. State of Haryana, (2014) 11 SCC 351).** Lack of bona fides imputable to a party, seeking condonation of delay, is a significant and relevant fact. (**Esha Bhattacharjee v. Raghunathpur Nafar Academy: (2013) 12 SCC 649; Brijesh Kumar v. State of Haryana, (2014) 11 SCC 351).** Accepting the contention that the Court should take a very liberal approach, irrespective of the period of delay, would practically render the limitation provisions redundant and inoperative. (**V. Balwant Singh v. Jagdish Singh, (2010) 8 SCC 685).** Reliance placed by the Appellant, on **Mool Chandra,** is therefore misplaced.

In **Union of India v. Jahangir Byramji Jeejeebhoy, 2024 SCC OnLine SC 489,** the appeal filed before the Supreme Court was against

an order passed by a single Judge of the Bombay High Court declining to condone the delay of 12 years and 158 days in filing the application for restoration of the Writ Petition which came to be dismissed for non-prosecution.

The Supreme Court observed that the High Court had made a reasonable suggestion to the appellant that, if possession of the suit property was handed over to the respondent, then probably the Court may consider restoring the Writ Petition which came to be dismissed for default; and the High Court had noted that the learned counsel appearing for the appellant had declined to hand over possession of the suit property to the respondent.

The Supreme Court reiterated the very same suggestion before the learned Attorney General that, if the appellants were ready and willing to hand over the suit property to the respondent, then, despite there being a long and inordinate delay, they may consider condoning the same and remanding the matter back to the High Court so that the High Court may be in a position to hear the matter on its own merits; however, the learned Attorney General, after taking instructions from his clients, regretted his inability to persuade the appellants to hand over possession of the suit property to the respondent.

The Supreme Court then observed that it hardly mattered whether a litigant was a private party or a State or Union of India when it came to condoning the gross delay of more than 12 years; if the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned; it would be a mockery of justice if the delay of 12 years and 158 days was condoned, and once again the

respondent was asked to undergo the rigmarole of the legal proceedings; the length of the delay was a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not; from the tenor of the approach of the appellants, it appeared that they wanted to fix their own period of limitation for instituting the proceedings for which law had prescribed a period of limitation; while considering the plea for condonation of delay, the court must not start with the merits of the main matter; the court owed a duty to first ascertain the *bona fides* of the explanation offered by the party seeking condonation; and it was only if the sufficient cause assigned by the litigant and the opposition of the other side was equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

The Supreme Court further observed that the question of limitation was not merely a technical consideration; the rules of limitation were based on principles of sound public policy and principles of equity; the 'Sword of Damocles' should not be kept hanging over the head of the respondent for an indefinite period of time to be determined at the whims and fancies of the appellants; the delay should not be excused as a matter of generosity; rendering substantial justice was not to cause prejudice to the opposite party; the appellants had failed to prove that they were reasonably diligent in prosecuting the matter; and this vital test for condoning the delay was not satisfied in this case.

In the light of the law declared by the Supreme Court in **Union of India v. Jahangir Byramji Jeejeebhoy, 2024 SCC OnLine SC 489**, and in as much as the Appellant herein has not been diligent in prosecuting the matter by filing the appeal on time, and the explanation offered by the Appellant, in seeking condonation of the delay of nearly three and

half years in filing the present appeal, lacks bona fides, their request for condonation of delay necessitates rejection.

In **Sheo Raj Singh Versus Union of India & Anr.(Judgment of the Supreme Court in Civil Appeal No. 5867 Of 2015 dated 09.10.2023),** the appeal was filed against the order of the Delhi High Court allowing an application filed by the Union of India under Section 5 of the Limitation Act, 1963, and thereby condoning the delay of around 479 days in presentation of an appeal from the decision of the Reference Court under Section 18 of the Land Acquisition Act, 1894.

It is in this context that the Supreme Court observed that condonation of delay being a discretionary power available to courts, exercise of discretion must necessarily depend upon the sufficiency of the cause shown and the degree of acceptability of the explanation, the length of delay being immaterial; sometimes, due to want of sufficient cause being shown or an acceptable explanation being proffered, delay of the shortest range may not be condoned whereas, in certain other cases, delay of long periods can be condoned if the explanation is satisfactory and acceptable; courts must distinguish between an 'explanation' and an 'excuse'; an 'explanation' is designed to give someone all of the facts and lay out the cause for something; it helps clarify the circumstances of a particular event and allows the person to point out that something that has happened is not his fault, if it is really not his fault; care must however be taken to distinguish an 'explanation' from an 'excuse'; although people tend to see 'explanation' and 'excuse' as the same thing, and struggle to find out the difference between the two, there is a distinction which, though fine, is real; an 'excuse' is often offered by a person to deny responsibility and consequences when under attack; it is sort of a defensive action; calling something as just an 'excuse' would imply that the explanation proffered is believed not to be true; and each case for condonation of delay, based

on existence or absence of sufficient cause, has to be decided on its own facts.

The Supreme Court further observed that they were not hearing an application for condonation of delay, but sitting in appeal over a discretionary order of the High Court granting the prayer for condonation of delay; in the case of the former - whether to condone or not would be the only question, whereas in the latter - whether there has been proper exercise of discretion in favour of grant of the prayer for condonation would be the question; “a court of appeal should not ordinarily interfere with the discretion exercised by the courts below” (**Manjunath Anandappa v. Tammanasa**: **(2003) 10 SCC 390**, and **Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha**: **(1980) 2 SCC 593)**; in the present case the High Court had assigned valid reasons in support of its order; they did not consider the discretion to have been exercised by the High Court in an arbitrary manner; and the order under challenge had to be a clearly wrong order so as to be liable for interference, which it was not.

Unlike in **Sheo Raj Singh Versus Union of India & Anr.(Judgment in Civil Appeal No. 5867 Of 2015 dated 09.10.2023)**, where the appeal to the Supreme Court was against the order of the High Court exercising its discretion to condone the delay, in the present case this Tribunal is required to consider whether the appellant has shown sufficient cause for condonation of the inordinate delay of 1224 days (ie nearly three and half years) in filing the present appeal. Reliance placed on behalf of the Appellant, on **Sheo Raj Singh**, is therefore misplaced.

By making a specific provision, under the proviso to Section 111(2), that *“sufficient cause”* must be shown for condonation of delay, Parliament has made it clear that applications, seeking condonation of delay, should not be allowed, and the delay condoned, for the mere asking. In the

present case the delay, from the date of the impugned order passed by the MERC on 02.02.2022 till the appeal was instituted before this Tribunal on 25.07.2025, is of 1224 days. Even if the delay in filing the present appeal were to be computed from 09.10.2023, when the Supreme Court delivered its judgment in **Gayatrishakti Paper and Boards Limited** (which the Appellant places reliance upon to contend that their appeals, which are pending before the Supreme Court, involve a similar question of law), the delay would still be of 610 days which is of around one year and eighth months. No reasonable explanation, much less one which would constitute sufficient cause for condonation of the inordinate delay, has been furnished by the Appellant.

Suffice it to conclude holding that the explanation furnished for the inordinate delay of nearly three and half years in filing the present appeal, or to be more precise a delay of 1224 days, is wholly insufficient and the explanation furnished does not constitute “sufficient cause” in terms of the proviso to Section 111(2) of the Electricity Act. The application, to condone the delay of 1224 days in filing the present appeal, is therefore dismissed and the appeal, along with other pending IAs, stands rejected.

Seema Gupta
Technical Member (Electricity)

Justice Ramesh Ranganathan
Chairperson

mk/dk