

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

DFR No : 584 of 2023 & IA No. 2241 OF 2023

Dated: 15th January, 2024

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

In the matter of:

Tamil Nadu Power Producers Association Appellant(s)

Versus

Tamil Nadu Electricity Regulatory Commission & Anr. Respondent(s)

Counsel on record for the Appellant(s) : Hemant Singh
Mridul Chakravarty
Biju Mattam
Supriya Rastogi Agarwal
Lakshyajit Singh Bagdwal
Ankita Bafna
Nehul Sharma
Robin Kumar
Harshit Singh
Lavanya Panwar
Alchi Thapliyal for App. 1

Counsel on record for the Respondent(s) : Anusha Nagarajan for Res. 2

ORDER

IA NO. 2241 OF 2023

(Application for condonation of delay of 354 & 54 days in filing the appeal)

While the delay in preferring this appeal, as computed by the Registry, is of 354 days, the delay excluding the period spent in prosecuting the review petition is of 54 days. Ms. Ankita Bafna, learned Counsel for the Appellant, would submit that, against the impugned order dated 09.09.2022, the appellant filed the review petition, within the stipulated period, on 29.09.2022; the review petition was dismissed on 06.07.2023; the appeal came to be filed on 13.10.2023; ordinarily, the

period spent in prosecuting the review petition is to be excluded; and if it is so excluded, the delay would only be of around 54 days.

As the period spent in prosecuting the review petition shall, ordinarily, be excluded in computing the period of delay in preferring the appeal, the delay in filing the appeal should be taken as 54 days on the delay being computed from the date on which the review order was passed. While the explanation furnished for the delay of 54 days in preferring the appeal is also not sufficient, the delay is not so inordinate as to necessitate refusal to hear the Appeal on merits. We consider it appropriate to condone the delay on condition that the Appellant pays cost of Rs. 20,000/- (Rupees Twenty Thousand only), to the Central Transmission Utility of India Limited (CTUIL) within four weeks from today, and files proof of payment in the Registry within two weeks thereafter. Subject to compliance with the aforesaid directions, the delay is condoned.

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

Needless to state that in case the aforesaid costs are not paid within the stipulated time, and an affidavit of proof of payment is not filed in the Registry within two weeks thereafter, the IA for condonation of delay, in filing the appeal, shall stand dismissed automatically, and the Appeal shall stand rejected.

The application is disposed of.

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Since, affidavit of proof of service of notice on all the Respondents has been filed, failure to effect service of court notice on the 1st Respondent, is of no consequence.

Learned Counsel on both sides, agree that the issue involved in this appeal is short, and it be included in the 'List of Short Matters' along with the connected Appeal No. 136 of 2022.

Reply shall be filed by the Respondents within six weeks and rejoinder, if any, shall be filed within four weeks' thereafter. After pleadings are complete, and after verification by the Registry, let this Appeal be included in the '**List of Short Matters**', along with Appeal No. 136 of 2022, to be taken up from there, in its turn.

(Seema Gupta)
Technical Member

(Justice Ramesh Ranganathan)
Chairperson

tpd/dk