

COURT-1

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

DFR No : 61 of 2025 & IA No. 267 OF 2025

Dated: 7th April, 2025

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

In the matter of:

M/s India Power Corporation Limited [IPCL] Appellant(s)

Versus

West Bengal Electricity Regulatory Commission Respondent(s)

Counsel on record for the Appellant(s) : Hasan Murtaza
Sameer Sharma
Ankit Kumar Sinha
for App. 1

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

ORDER

IA No. 267 of 2025

(for condonation of delay in filing the appeal)

While the Registry records the delay to be of 286 days, Mr. Sameer Sharma, learned Counsel for the Appellant, would submit that, if the period spent in prosecuting the Review Petition is excluded, then the delay would be only of around 133 days and not 286 days.

The order under appeal was passed on 13.03.2024, against which, the Appellant had preferred the Review Petition on 09.05.2024, within the 45 days limitation period stipulated for filing a Review Petition. The said

Review Petition was eventually dismissed on 27.09.2024, and the present appeal was filed on 07.02.2025. Ordinarily, the period spent in prosecuting the Review Petition is required to be excluded in computing the delay in filing the appeal. If so excluded, the delay, computed from 27.09.2024 to 07.02.2025, would be of 133 days. The explanation furnished for this delay is that the officials of the Appellant were busy in furnishing clarifications to the Commission with respect to MYT and APR Petitions filed by them earlier; and this resulted in their not being in a position to finalise the appeal.

It does not stand to reason that, despite being aware that an appeal is required to be filed within 45 days, the Appellant would delay filing the appeal in order to furnish clarifications to the WBERC with respect to the MYT and APR Petitions filed by them earlier.

We are of the view that the explanation furnished by the Appellant, for this period of delay, does not constitute “sufficient cause” for condonation. We are, however, satisfied that the delay is not so inordinate as to justify refusal to hear the appeal on merits, and consider it appropriate to condone the delay on payment of costs of Rs. 50,000/- (Rupees Fifty Thousand only) to the Central Transmission Utility of India Limited (CTUIL) within four weeks from today, and on proof of payment being filed 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 CTUIL 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.

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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