

COURT - I

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

**IA NO. 150 OF 2017 IN
DFR NO. 390 OF 2017**

Dated: 12th April, 2017

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson
Hon'ble Mr. I.J. Kapoor, Technical Member**

In the matter of :

Indian Wind Power Association **...Appellant(s)**

Vs.

Tamil Nadu Generation & Distribution Corporation Ltd. & Ors. **...Respondent(s)**

Counsel for the Appellant(s) : Mr. Senthil Jagadeesan

Counsel for the Respondent(s) : Mr. S.Vallinayagam for
TANGEDCO for R-1 & R-2

ORDER

IA NO. 150 OF 2017
(Appl. for condonation of delay)

There is 307 days' delay in filing this appeal. In this application, the Applicant/Appellant has prayed that delay may be condoned.

All the Respondents have been served. Mr. Vallinayagam appears on behalf of Respondent Nos.1 & 2. Though served, nobody is representing the other respondents.

We have heard learned counsel for the Appellant and perused the explanation offered for the delay in filing the appeal. It appears that the delay has occurred as the appellant was prosecuting the review petition. Following is the explanation offered by the appellant in the application:

“3. It is respectfully submitted that the delay in filing the instant appeal is due to the fact that a review was pending before the 3rd Respondent against the order dated 31.03.2016 vide R.P. No. 1 of 2016, which was dismissed on 09.12.2016. An appeal has been filed against the judgment in R.P. NO. 1 of 2016 also before this Hon’ble Tribunal. Hence the delay which is neither wilful nor wanton.

4. It is pertinent to state that the appeal against the original order has been preferred within 45 days of receipt of the impugned review order passed by the 3rd respondent Commission. It is further submitted that the present appeal qua the review order passed in R.P. No. 1 of 2016 has been filed within the prescribed period of limitation as per Section 111 (2) of the Electricity Act, 2003, within 45 days of receiving the copy of the order in R.P. No.1 of 2016.

5. It is submitted that the Appellant had preferred a Review against the Tariff Order No. 3 of 2016 dated 31.03.2016 insofar as Scheduling and System Operation Charges are concerned as the order suffers from certain errors apparent on the face of record and required review of the same and the review was filed under bona fide belief that there was an error apparent on the face of the record. In this regard, reliance is placed in the Judgment of this Hon’ble Tribunal in I.A. NO. 458 of 2015 in DFR No. 2385 of 2016 in the case of Jindal Steel & Power Limited v. Rajgarh Ispat Udyog Sangh & Anr. In this case, this Hon’ble Tribunal was pleased to observe that the Review Petition was filed by the Appellant under bona fide belief seeking review of the Tariff Order and as soon as the impugned order copy was received, the review petition was filed within the prescribed time limit. Thus, in view of the fact that delay in this case was on account of pendency of review petition before the State Regulatory Commission, the delay in filing the appeal was condoned.”

No reply has been filed by the respondents opposing this application. We find the above explanation to be acceptable. Sufficient cause has been made out. Hence, delay is condoned. Application is disposed of.

Registry is directed to number the appeal and list the matter for admission on **01.05.2017.**

(I. J. Kapoor)
Technical Member

ts/kt

(Justice Ranjana P. Desai)
Chairperson