COURT-I

IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)

IA No. 450 OF 2015 IN
DFR No. 1410 OF 2015 &
IA No. 382 OF 2016

Dated : 1st December, 2016

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

In the matter of:

M/s Atlantic Power Pvt. Ltd. … Appellant(s)
Vs.
Punjab Energy Development Agency (PEDA) & Ors. … Respondent(s)

Counsel for the Petitioner(s) : Mr. Tejender K.Joshi

Counsel for the Respondent(s) : Mr. Aditya Grover
Mr. Arjun Grover for R-1

Ms. Suparna Srivastava for R-2

Mr. Sakesh Kumar for PSERC

ORDER

IA No. 450 OF 2016
(Appls. for condonation of delay in refiling the appeal)

There is 105 days delay in re-filing the appeal. Hence, in this application, the Applicant/Appellant has prayed that delay in re-filing may be condoned.

Respondents have been served and affidavit of service is filed. We have heard learned counsel for the parties.

In the application, it is stated that the applicant was prosecuting the Review Petition before the State Commission and the same was disposed of

on 06.11.2015. Thereafter, the Appellant removed the office objections. In these circumstances, there is delay in re-fling the appeal.

Learned counsel for Respondent No.1 has strenuously opposed the application. He drew our attention to Business Regulation No. 65 of the Punjab State Electricity Regulatory Commission and contended that it was obligatory on the part of the Appellant to inform the State Commission that the Appellant had filed the review petition. Counsel submitted that the Appellant did not point out this fact to the State Commission. Therefore, the Appellant is guilty of suppression. The Appellant has not come to this Tribunal with clean hands and hence, delay in re-filing the appeal should not be condoned.

If what counsel for Respondent No.1 says is true, his objection would be justified. But learned counsel for the Appellant submits that he had orally informed the State Commission. However, this fact was inadvertently not noted in the order passed by the State Commission. There is no reason for us not to accept the statement made by learned counsel for the Appellant. Learned counsel for Respondent No.1 states that he was not present before the State Commission on that day, therefore, he cannot controvert the statement of the Appellant's counsel. In view of the statement made by learned counsel for the Appellant and since the companion appeals have already been admitted, we deem it appropriate to condone the delay in re-filing the appeal. Delay in re-filing the appeal is condoned. Application is disposed of.

Registry is directed to number the Appeal/Application and list the matter on **19.12.2016**.

(I.J. Kapoor)
Technical Member

(Justice Ranjana P. Desai)
Chairperson

ts/kt