

COURT-I

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

**IA NO. 818 OF 2017 IN
DFR NO. 3036 OF 2017**

Dated: 14th December, 2017

**Present: Hon'ble Mr. I. J. Kapoor, Technical Member
Hon'ble Mr. Justice N. K. Patil, Judicial Member**

In the matter of:

BSES Yamuna Power Limited

.... Appellant(s)

Vs.

Delhi Electricity Regulatory Commission

.... Respondent(s)

Counsel for the Appellant(s) : Mr. Buddy A. Ranganadhan
Mr. Hasan Murtaza

Counsel for the Respondent(s) : -

ORDER

There is 59 days' delay in filing this appeal. In this application, the Applicant/Appellant has prayed that delay may be condoned.

The Respondent has been served. However, nobody is representing the respondent.

We have heard learned counsel for the Applicant and perused the explanation offered for the delay in filing the appeal. The Relevant portion of the explanation is quoted hereunder:

"4. There is a delay of 59 days in filing the present appeal as per impugned order dated 1-6-2017 setting out the different provisions and charges relating to the grant of open access required an indepth analysis and consultations amongst the various functionaries of the

Applicant/Appellant. As such, the Appellant had to examine all the characteristics and pros and cons, financial implications as well as the various legal provisions and case laws, which was time consuming. The impugned order would not only have a serious impact of the financial condition of the Appellant distribution licensee, but also on the financial implication on the body of the subsidized consumers owing to the various dispensations (including exemptions from the levy of cross subsidy surcharge.) The impugned order also has a serious impact on the grid and the distribution system.

5. *The impact of the impugned order was assessed by the Appellant at various levels within the organisation.*

6. *In view of the above, it is submitted that delay was unintentional and unavoidable reasons as mentioned above including the documents being voluminous and technical. Hence the Appellants got delayed in filing the present appeal.*

7.

8. *That the delay in filing the present appeal is neither deliberate nor intentional. It is due to the circumstances mentioned above which was beyond the control of the Appellant. Further it is submitted that this Hon'ble Court in a catena of judgments has held that the words "sufficient cause for not making the application within the period of limitation" should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and circumstances of the case, and the type of case. It is respectfully submitted that the question of delay in filing the present statutory appeal would in the respectful submission of the Appellant needs to be viewed with leniency. There is sufficient cause that the present Appellant makes out that not only necessitates the present appeal to be allowed, but also necessitates condonation of delay.*

9. *It is, hence, respectfully submitted that the provisions concerning condonation of delay will need to be interpreted so as to advance the cause of justice."*

On a perusal of the above explanation, we feel that sufficient cause has been made out and delay deserves to be condoned. Accordingly, delay in filing the appeal is condoned. Application is disposed of.

Registry is directed to number the appeal and list the matter for admission on **19.12.2017.**

(Justice N. K. Patil)
Judicial Member

(I.J. Kapoor)
Technical Member

ts/tpd