

COURT-II

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**IA No. 248 of 2015 in DFR No. 1216 of 2015
(connected with A.No. 119 of 2013)**

Dated: 12th February, 2016

**Present: Hon'ble Mr. Justice Surendra Kumar, Judicial Member
Hon'ble Mr. T. Munikrishnaiah, Technical Member**

In the matter of:-

**Madhya Pradesh Power Management Co. Ltd. ... Appellant(s)
Versus
Central Electricity Regulatory Commission & Ors. ... Respondent(s)**

Counsel for the Appellant(s) : Mr. Rishabh Donnel Singh

Counsel for the Respondent(s) : Mr. Anand K. Ganesan for R.5
Ms Suparna Srivastava for R.7
Ms. Divya Chaturvedi and
Mr.Suksham Chauhan

ORDER

Appeal No. 119 of 2013 is admittedly against the interim provisional tariff order of the Central Commission. Now the learned Central Commission has determined the tariff finally. The learned counsel for the appellant wants to revive this appeal just on the ground that the final tariff order shall be subject to the result of the Appeal No. 119 of 2013, which is pending in this Appellate Tribunal against the provisional tariff order. Since the present appeal was pending against the provisional tariff order, the Central Commission was bound to make some observation to put the tariff order subject to the result of the present appeal, being Appeal No. 119 of 2013. There is no legal hindrance in this. Though legally the appeal does not survive when the final tariff has been passed but the appeal is kept pending for disposal at the risk of the appellant.

We may mention here that there is one IA, being IA No. 248 of 2015 in DFR No. 1216 of 2015 (delay in filing), in which condonation is being sought by the appellant/applicant on the grounds mentioned in the Affidavit accompanied therewith. This is a time barred appeal, filed against the provisional tariff order dated 26.09.2012 and by now the Central Commission has passed the final tariff order, vide order dated 18.12.2015. Though final tariff order has been passed this time barred appeal appears to be infructuous but at the instance of the learned counsel for the appellant, since we have entered into merits already, admittedly the appeal, being Appeal No. 119 of 2013, against the same provisional tariff order, we deem it proper to condone the delay. Accordingly, the **IA No. 248 of 2015 is hereby allowed.**

Registry is directed to number the appeal within two days positively since the respondents in both the appeals are same. The parties are directed to complete their pleadings before the next fixed date, namely on **25th February, 2016.** Both these appeals are being continued in spite of the fact that provisional tariff order has been passed hence expeditious hearing is required in these matters. No adjournment shall be granted at any cost to the parties as the matter is very old, being three years old.

Post this appeal for arguments on merits on **25th February, 2016.**

(T. Munikrishnaiah)
Technical Member

(Justice Surendra Kumar)
Judicial Member

sh/vg