

COURT-I

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

IA Nos. 27 & 28 OF 2016

IN

DFR NO. 2110 OF 2015

Dated: 29th February, 2016

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

In the matter of:

TANGEDCO & Ors.

...Appellant(s)

Versus

M/s Century Flour Mills Ltd. & Anr.

...Respondent(s)

Counsel for the Appellant(s) : Mr. G. Umapathy
Mr. Vallinayagam

Counsel for the Respondent(s) : Mr. Anand K. Ganesan
Ms. Swapna Seshadri for R.1

ORDER

IA Nos. 27 & 28 OF 2016

(Applications for condonation of delay in filing & re-filing the appeal)

There is 208 days delay in filing and 45 days delay in re-filing this appeal. In these applications the applicant/appellant prays that the delay may be condoned.

We have heard learned counsel for the parties and perused the reply and rejoinder filed by the parties. The applicant/appellant has given the

following explanation for the delay in filing the appeal. The relevant portion reads as under:

“3. The issue involved in the appeal is adjustment of wind energy banked by wind generators. The provision of banking of wind energy has resulted in loss to the utility. The appellant has been directed to adjust the wind energy generated by REC wind energy generators first and then the Non REC wind generators. This leads to a situation wherein the REC wind generators will be benefited in two ways; (1) the REC benefits as per the Regulations and (2) The adjustment of REC wind energy first will lead to reduced quantum of lapsed units. On the other hand the utility will be forced to pay the Rs.48 lakhs leading to loss to public exchequer. In the above circumstances, the issue was discussed in detail by the appellant utility and the Accounts Department of the appellant corporation granted its approval on 16.06.2015 to file appeal before this Hon’ble Appellate Tribunal.

4. Subsequent to the grant of approval from Accounts Department, approval of legal wing of the appellant Corporation was sought. The issue was considered by the legal department of the appellant and it gave its approval to file the appeal on 03.10.2015 and permitted the appellant to proceed.

5. After getting approval from the accounts department and the legal department the papers were sent to the counsel at Delhi for getting the draft appeal ready for approval by the appellant.

6. The draft appeal was sent to the appellant by its counsel on 12.10.2015. The draft was approved for filing before this Hon’ble Appellate Tribunal on the requisite court fee for filing the appeal was sanctioned. The approved and signed appeal with vakalatnama and affidavit with court fee for filing the appeal to the counsel for appellant at Delhi on 20.10.2015. The relevant documents were typed and the appeal is filed today.”

We find some justification in the grievance made by respondent No.1. The applicant should have taken expeditious steps. However, considering the importance of the issues involved in this appeal, we feel that the delay in filing and re-filing the appeal deserves to be condoned after saddling the applicant with heavy costs. Hence, delay in filing and re-filing the appeal is condoned subject to the condition of payment of cost of Rs. 50,000/- (Rupees fifty thousand only) to a charitable organization, namely "**Dr. Ruhi Foundation School, Village: Gheja, Sector – 93, NOIDA, A/C (TRUST):- Payable to : SAIDEEP DR. RUHI FOUNDATION, A/C No. 95266 3443**" within two weeks from today. Accordingly, the applications are disposed of.

After receiving the compliance report, registry is directed to number the appeal and list it for admission on 18.03.2016. Registry is directed to send a copy of this order to the charitable organization.

(I. J. Kapoor)
Technical Member
ts/vg

(Justice Ranjana P. Desai)
Chairperson