

COURT - I

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

**IA NO. 655 OF 2016 IN
DFR NO. 3557 OF 2016**

Dated: 02nd February, 2017

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

In the matter of :

Bharat Aluminium Co. Ltd. ...Appellant(s)

Vs.

Chhattisgarh State Electricity Regulatory Commission & Anr. ...Respondent(s)

Counsel for the Appellant(s) : Ms. Shikha Ohri
Mr. Saahil Kaul

Counsel for the Respondent(s) : Mr. C. K. Rai
Mr. Umesh Prasad for R.1

Mr. K. Gopal Choudary for R.2

ORDER

IA NO. 655 of 2016

(Appl. for condonation of delay)

In this appeal, the appellant/applicant has challenged the tariff order dated 12.06.2014 passed by the Chhattisgarh State Electricity Regulatory Commission.

There is 863 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. C.K. Rai appears on behalf of Respondent No.1 and Mr. Gopal Choudary appears on behalf of Respondent No.2.

We have heard learned counsel for the parties. It appears that the Appellant had filed a review petition, which was dismissed on 27.07.2016 and thereafter the appeal was filed on 24.10.2016. The following explanation is offered in the application:

a. The Respondent Commission passed a tariff order dated 12.06.2014 in Petition No. 7 of 2014 for the financial year 2014-15.

b. Thereafter, the appellant filed a review petition before the Respondent Commission against the aforesaid impugned order. The said Review Petition was numbered as Petition No. 37 of 2014 (M).

c. However, the Respondent Commission, vide its order dated 27.07.2016, dismissed the aforesaid review petition and reaffirmed the findings of the Respondent Commission qua the determination of the Cross Subsidy Surcharge.

d. It is pertinent to mention here that the Appellant could not have preferred an appeal against the impugned order until the Review Petition pending before the Respondent Commission was decided. It is pertinent to note that the aforesaid Review Petition was finally decided by the Respondent Commission only on 27.07.2016.

e. Thereafter, the applicant became aware of the said order of the Hon'ble Commission dated 27.07.2016 on 30.07.2016. It was only after getting the knowledge of the passage of the said review order, that a decision was taken by the appellant to file the present appeal.

f. Thereafter, the applicant contacted its counsel in New Delhi for drafting and filing the present appeal. It is stated that for doing the same, certain time was consumed in obtaining the necessary administrative approvals for appointment of advocates and related issues. The aforesaid administrative approvals were obtained by the second week of August.

g. Post the said approvals, the Appellants had to conduct detailed deliberations and analysis in order to access the correct quantum

of cross subsidy surcharge leviable on the appellant and other Open Access Consumers. It is stated that the said deliberation consumed around three weeks.

h. Thereafter, the advocates of the appellant sent the first draft of the appeal on or around 15.09.2016. Thereafter, the petition was finalised around 22.10.2016, and the same was filed on 24.10.2016.”

Having heard learned counsel for the parties and having considered the explanation, we feel that in the interest of justice delay should be condoned after saddling the appellant with costs. Accordingly, the appellant is directed to pay the costs of Rs.50,000/- (Rupees fifty thousand only) to a charitable organisation, namely, “Sai Deep Dr. Ruhi Foundation, A/c No. 952663443, A-508, Sector – 19, Noida – 201301” within one week from today. Application is disposed of.

After receiving the compliance report, Registry is directed to number the appeal and list for admission on **20.02.2017.**

(I. J. Kapoor)
Technical Member

(Justice Ranjana P. Desai)
Chairperson

ts/sh