

COURT - I

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

IA NO. 461 OF 2016 IN DFR NO. 2442 OF 2016

AND

IA NOS. 554 AND 601 OF 2016

Dated: 19th January, 2017

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

In the matter of :

Punjab State Power Corporation Ltd. ...Appellant(s)

Vs.

Punjab State Electricity Regulatory Commission & Ors. ...Respondent(s)

Counsel for the Appellant(s) : Mr. Vishal Chaudhri

Counsel for the Respondent(s) : Mr. Tajender K. Joshi R.2 to 10

ORDER

IA NOS. 461 & 554 OF 2016

(Appls. for condonation of delay)

There is 120 days delay in filing this Appeal. Hence, in this application, the Applicant/Appellant has prayed that delay may be condoned. Paragraph No.2 of the Application No. 554 of 2016 reads as under:

"2. That the Applicant, in the Appeal as preferred qua Petition No. 76 of 2015 and bearing DFR No. 2442 of 2016, had placed on record IA No. 461 of 2016 Annexure P-1 for condonation of delay of 31 days in filing the appeal before the Hon'ble Tribunal. The said delay inadvertently was counted from the date of the Order i.e., 3/5/16 as passed by the State Commission in Review Petition No. 2 of 2016 instead of from the

date of the impugned Order dated 3/02/16 as passed in Petition No. 76/2016.”

There was some dispute about the date on which the review petition was filed. We, therefore, directed counsel for the Appellant to file an affidavit. Accordingly, the affidavit dated 06.01.2017 has been tendered today in the Court. Paragraph Nos. 3 & 6 of the said affidavit read as under:

“3. That the review petition bearing no.2 of 2016 against the Order dated 3/2/16 in Petition no. 76 of 2015 was filed on 02/4/16 before the State Commission. The said Review Petition was filed within the prescribed period of limitation.

.....

6. That the action of the counsel in bringing the error in counting the delay in the initial Interlocutory Application bearing no. 461/2016 in DFR 2442/16, immediately on becoming aware of the fact, shows in unequivocal terms that the mistake was inadvertent and nothing more.”

It is apparent that the review petition was filed within the prescribed time. Counsel for the Respondents has strenuously opposed the application. However, having regard to the fact that the Appellant has given an acceptable explanation that inadvertently the delay was wrongly counted from the date on which the State Commission had dismissed the review petition instead of counting the delay from the date of the impugned order, we are of the opinion that the delay deserves to be condoned. Accordingly, delay is condoned. I.A. Nos. 461 and 554 of 2016 are disposed of.

IA NO. 601 OF 2016
(Appl. for stay)

In this application the Appellant/Applicant has prayed that the impugned order be stayed.

We have heard learned counsel for the parties.

Admittedly, the amount of Peak Load Exemption Charges have been refunded by the Appellant as directed by the State Commission in the impugned order. Therefore, there is no question of staying the impugned order. Application is therefore dismissed as infructuous.

DFR NO. 2442 OF 2016

Registry is directed to number the appeal.

With the consent of the parties, the matter is taken up for admission. We have heard learned counsel for the parties. **Admit.** Mr. Tajender K. Joshi takes notice on behalf of Respondent Nos. 2 to 10. Notice be issued to the other Respondents returnable on 15.03.2017. Dasti, in addition, is permitted.

List the matter on **15.03.2017**. In the meantime, pleadings be completed.

(I. J. Kapoor)
Technical Member

ts/sh

(Justice Ranjana P. Desai)
Chairperson