

**COURT-I**  
**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY**  
(Appellate Jurisdiction)

**IA NO. 470 OF 2017 & IA NO. 471 OF 2017**  
**IN DFR NO. 1787 OF 2017**

**Dated: 3<sup>rd</sup> January, 2018**

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

**In the matter of:**

<b>Dr. Bharat Jhunjunwala</b>	<b>....</b>	<b>Appellant(s)</b>
<b>Vs.</b>		
<b>Uttar Pradesh Electricity Regulatory Commission &amp; Ors.</b>	<b>....</b>	<b>Respondent(s)</b>

Counsel for the Appellant(s) : Mr. Gaurav Ray

Counsel for the Respondent(s) : Mr. Mohit Rai for Mr. C.K Rai for R-1

Mr. Vishrov Mukherjee

Mr. Janmali

Ms. L Ayallore for R-2

Mr. Rajiv Srivastava for R-3

**ORDER**  
**(IA NO. 470 OF 2017 – for delay in filing)**

We have heard the learned counsel for the Applicant/Appellant and learned counsel for the respondent No.2. We have carefully gone through the statement made in the accompanying Affidavit along with Application filed by the Applicant/Appellant and also the reply filed by respondent No.2.

The learned counsel appearing for the Applicant/Appellant submitted that, the delay in filing the Appeal is explained and sufficient cause has been shown in the accompanying additional Affidavit along with Application. The same may kindly be accepted. Delay in filing the Appeal may kindly be condoned in the interest of justice and on the grounds that the Applicant/Appellant has a case on merits and the matter requires for consideration. The said delay is not intentional and deliberate on the part of the Applicant/Appellant and due to ill health and also delay in obtaining necessary papers has been explained in the Affidavit, the same may kindly be accepted and the delay may be condoned in the interest of natural justice and equity.

Per contra the learned counsel for the Respondent No.2 submitted that, delay in filing has not been explained satisfactorily nor assigned any cogent reasons for condoning the delay in filing the Appeal. The reasoning given in explaining the delay is contrary to the statement made in the first affidavit and also in the additional affidavit. Therefore, the same cannot be acceptable. Further, he submitted that the Application filed by the Applicant/Appellant for condoning the delay may be dismissed as misconceived.

After carefully considering the submissions of the learned counsel appearing the Applicant/Appellant and learned counsel appearing the respondent No.2 and also gone through the statement made by the Applicant/Appellant in the Affidavit and additional Affidavit explaining the delay in filing the Appeal and also reply filed by the 2<sup>nd</sup> Respondent

opposing for condoning the delay in filing the Appeal, what is emerged from the available records that, there is a delay of 377 days in filing the Appeal and the said delay has been explained satisfactorily. Sufficient cause has been shown. Due to ill health and obtaining necessary papers the said delay is caused. The said delay has not been intentional and deliberate on the part of the Applicant/Appellant. Further, it emerges from the statement made in the Affidavit and after perusal of the Impugned Order, the matter requires consideration on merits. Keeping in view this relevant factor in consideration, we accept the delay explained satisfactorily, sufficient cause has been shown, subject to imposing some reasonable cost and to decide the matter on merits after offering reasonable opportunity of hearing for all the parties to meet the ends of justice. For the foregoing reasons as stated above, delay in filing the instant Appeal is condoned. IA No. 470 of 2017 filed by the Applicant/Appellant is allowed subject to the condition that Applicant/Appellant shall pay a cost of Rs. 30,000/-.

The Applicant/Appellant is directed to pay Rs.30,000/- to charitable organisation namely, **"National Defence Fund, Collection A/c No. 11084239799 (PAN No. AAAGNOO09F) with State Bank of India, Institutional Division, 4<sup>th</sup> Floor, Parliament Street, New Delhi"** within four weeks from today i.e. on or before 01.02.2018. Further, needless to clarify that the question of maintainability of the Appeal is left open.

With these observations, the IA No. 470 of 2017 stands disposed of.

**ORDER**

**(IA NO. 471 OF 2017 – for waiver of court fee)**

We have heard learned counsel for the Applicant/Appellant and perused the submissions offered for the waiver of court fee in filing the appeal.

After careful consideration of the submissions made in the accompanying affidavit along with Application regarding waiver of court fee, the reasons given by the Applicant/Appellant for waiver of court fee are not acceptable nor he has given any satisfactory explanation nor it is a fit case to consider waiver of court fee. Therefore, the explanation given by the Applicant/Appellant for waiver of court fee cannot be accepted. Hence, the IA No. 471 of 2017 for waiver of court fee dismissed.

With these observations, the IA No. 471 of 2017 stands disposed of.

Registry is directed to number the Appeal after receiving the compliance report from the Applicant/Appellant. Thereafter, if the Applicant/Appellant has complied with office objection, post the matter for admission on **05.02.2018**.

**(Justice N. K. Patil)**  
**Judicial Member**

*mk/ss*

**(I.J. Kapoor)**  
**Technical Member**