

COURT - I

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

**IA NO. 573 OF 2017 IN
DFR NO. 2130 OF 2017 &
IA NO. 1156 of 2017**

Dated: 8th January, 2018

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

In the matter of :

M/s. Green Energy Association

...Appellant(s)

Vs.

Karnataka Electricity Regulatory Commission &Ors.

...Respondent(s)

Counsel for the Appellant(s) : Mr. Parinay Deep Shah
Ms. Ritika Singhal

Counsel for the Respondent(s) : Ms. Pratiksha Mishra for R-2

Ms. Vaishnavi Rao Ragima for R-3

Mr. Ashok Bannidinni for R-6

ORDER

IA NO. 1156 OF 2017

(Appl. for condonation of delay in filing reply)

In this application, the applicant/respondent No.3 has prayed that delay in filing reply/statement of objection may be condoned.

We have heard learned counsel for the applicant and perused the explanation offered for the delay in filing reply. We find the explanation to be acceptable. Sufficient cause has been made out. Hence, delay in filing reply/statement of objection is condoned and reply/statement of objection is taken on record. Application is disposed of.

IA NO. 573 OF 2017
(Appln. for condonation of delay)

There is 123 days' delay in filing this appeal. In this application, the Appellant has prayed that delay in filing the appeal may be condoned.

We have heard learned counsel for the parties. Learned counsel for the Appellant has contended that sufficient cause has been made out and delay may be condoned. The relevant paragraphs of the explanation read as under:

“4.

The impugned order passed on 19.01.2017 was received by the Appellant on 25.01.2017. The Appellant thereafter convened an internal meeting with its board members on 10.02.2017 to decide the next course of action. However, on 28.02.2017, CERC initiated proceedings in 02/SM/2017 regarding re-determination of floor and forbearance price of RECs. The members of the Appellant are RE generators under the REC mechanism and they were deeply disturbed by the arbitrary and unreasoned floor and forbearance price of solar RECs as proposed by the CERC. Accordingly, the members of the Appellant association were involved with the preparation and submission of comments/suggestions in Petition No. 02/SM/2017. Various members of the Appellant were at the risk of suffering 70% erosion of their net worth, while others were on the verge of being declared NPAs if the proposal circulated by the CERC was finalised.

5. *Accordingly, the Appellant could approach the present counsel for the filing of the Appeal only on 15.04.2017. The first draft of the Appeal was prepared on 16.05.2017 and was circulated to the Appellant. The said draft was sent back to the counsel with the Appellant's comments on 24.05.2017. Necessary changes were made by the counsel and the new draft was circulated to the Appellant on 31.05.2017.*

6. *Upon receiving the approval of the Appellant the counsel for the Appellant sent the documents required for filing to the Appellant on 05.06.2017. However, the officer In-charge of the Appellant, who is authorised to sign the documents was in some personal difficulty and therefore unable to sign the documents. The documents were received by the counsel for the Appellant only on 04.07.2017 and therefore the Appeal has been filed on 07.07.2017 with the delay of 123 days. In view of the facts mentioned herein it is submitted that the delay is inadvertent and bonafide.”*

Learned counsel for the respondents have filed their statement of objections strenuously opposing the condonation of delay. We have gone through the said statement of objections filed by the Respondents.

Considering the above explanation offered by the Appellant and having regard to the issues involved in this appeal, we are of the opinion that in the interest of justice delay needs to be condoned after saddling the Appellant with cost quantified at Rs.10,000/-. Accordingly, delay in filing the appeal is condoned on the condition that the Appellant pays cost of Rs.10,000/- (Rupees ten thousand only) to “**NATIONAL DEFENCE FUND, PAN NO. AAAGNOOO9F, COLLECTION A/C No. 11084239799 WITH STATE BANK OF INDIA, INSTITUTIONAL DIVISION, 4TH FLOOR, PARLIAMENT STREET, NEW DELHI**” within three weeks from today.

After receiving the compliance report, Registry is directed to number the appeal and list the matter for admission on **20.02.2018**.

(Justice N. K. Patil)
Judicial Member

(I.J. Kapoor)
Technical Member