

COURT-I

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

**IA NO. 323 OF 2017 IN
DFR NO. 758 OF 2017**

Dated: 2nd November, 2017

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

In the matter of:

SKS Ispat and Power Ltd.

...Appellant(s)

Vs.

Chhattisgarh State Electricity Regulatory Commission & Anr.

....Respondent(s)

Counsel for the Appellant(s) : Mr. Ashish Anand Barnard
Mr. Paramhans

Counsel for the Respondent(s) : Mr. Ritesh Khare
Mr. Akhilesh for R-1

Mr. Apoorva Kurup
Mr. A. C. Boxipatro for R-2

ORDER

IA NO. 323 OF 2017
(Appln. for condonation of delay)

There is 136 days' delay in filing this appeal. In this application, the Applicant/Appellant has prayed that delay may be condoned.

The Respondents have been served. Mr. Ritesh Khare appears on behalf of Respondent No.1 and Mr. Apoorva Kurup appears on behalf of Respondent No.2.

We have heard learned counsel for the parties and perused the explanation offered for the delay in filing the appeal. The following is the explanation:

1. *That the Appellants/Applicants above-named have filed the instant appeal challenging the Impugned Order against the order dated 01.09.2016 passed by the Hon'ble CSERC in Petition No. 36 of 2015 (D) wherein the Respondent No.1 Commission has erroneously dismissed the Petition and has held that Power Factor Surcharge is leviable on the Appellant and hence the Appellant is not entitled to any refund of the amount paid as PFS.*
2. *That the Impugned Order was communicated to the counsel of the Appellant and the Appellant had challenged the said order before the Hon'ble High Court of Chhattisgarh in W.P. No. 2922 of 2016 and the Hon'ble High Court vide its order dated 30.11.2016 disposed off the matter and granted liberty to the Appellant to file appeal before this Hon'ble Tribunal. The Writ Petition was filed challenging the order on the ground that the same has been pronounced after a gap of about one year and hence in accordance with the settled law as enunciated by the Hon'ble Supreme Court the order is liable to be set-aside on this ground alone. A copy of the order dated 30.11.2016 is annexed to the Appeal.*
3. *That after the passing of the Order dated 30.11.2016 by the Hon'ble High Court the Appellant thereafter sought legal advice from its counsel with respect to the Impugned Order and the liberty given by the High Court. That thereafter the officials of the Appellant then informed the management of the Appellant and the same was discussed.*
4. *That thereafter it was decided to challenge the impugned order before this Hon'ble Tribunal and on 16.12.2016 the relevant documents and the case file was handed over to the legal counsel. That thereafter, the new legal counsel had detailed discussions with the officials of the Appellant and the instant appeal was thereafter drafted and filed. That the Appellant was also in touch with its local counsel in Bilaspur for obtaining the certified copy of the impugned order which was submitted in W.P. No. 2922 of 2016 and the same was not received and hence also the delay.”*

Learned counsel for Respondent No.2 has objected to the condonation of delay on the ground that after the High Court's order dated 30.11.2016, the appellant took three months time to file the instant appeal. However, we notice that time was taken by the Appellant in obtaining legal advice. In the circumstances of this case and also considering the issue involved in the appeal, we are of the opinion that in the interest of justice delay needs to be condoned after saddling the Appellant with costs quantified at Rs.10,000/-. Accordingly, the Appellant is directed to pay the cost of Rs.10,000/- (Rupees ten thousand only) to "***the Supreme Court Legal Services Committee***" on or before 27.11.2017. Application is disposed of.

After receiving the compliance report, Registry is directed to number the appeal and list it for admission on **11.12.2017.**

(I. J. Kapoor)
Technical Member

(Justice Ranjana P. Desai)
Chairperson

ts/vg