

COURT-I

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**IA NOs. 224 & 225 OF 2015
IN DFR NO. 774 OF 2015**

Dated: 13th October, 2015

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

In the matter of:-

West Bengal State Electricity Distribution Co. Ltd. ...Appellant(s)

Versus

West Bengal Electricity Regulatory Commission ...Respondent(s)

Counsel for the Appellant(s) : Mr. Krishnan Venugopal, Sr. Adv.
Mr. Sakya Singha Chaudhuri
Mr. Avijeet Lala
Mr. Anand K. Shrivastava

Counsel for the Respondent(s) : Mr. C.K. Rai
Mr. Paramhans for WBERC

ORDER

**IA NOs. 224 & 225 OF 2015
*(Appl. for condonation of delay in filing & re-filing the appeal)***

There is 530 days delay in filing and 44 days delay in re-filing this appeal. In these applications the applicant/appellant has prayed that the delay be condoned. The following explanation is offered by the applicant/appellant for condonation of delay in filing the appeal.

- “3. That the impugned order was passed by the learned Commission on 09.09.2013. The appellant came to know about the order on 12.09.2013.**
- 4. That the legal department as well as the management of the Appellant company comprehensively examined the impugned order and its implications. The Appellant held extensive meetings to understand the mechanisms and nuances of the impugned order on the tariff as well as effect of the APR order on the consumers keeping in mind the nature and complexity of the issues involved in tariff regulation.**
- 5. An analysis of the APR Order revealed that the learned Commission had disallowed the carrying cost of regulatory assets as well prior period depreciation in the APR order for the year 2011-12, for the first time for the Appellant company. It revealed that most of the carrying cost claimed in the application by the Appellant for the first time as per APTEL judgment in OP 1 of 2011 (passed on 01/11/2011) on the regulatory assets created over the years from year 2008-09, was disallowed. In addition, the claim of prior period depreciation made as per various Accounting Standards (as per Audited Annual Accounts) was also disallowed.**
- 6. Thereafter, the management of the Appellant company directed the concerned department to conduct the internal audit to understand the effect of the disallowance of carrying cost of regulatory assets as well prior period depreciation on the revenue of the Appellant as well as its effect on the consumers.**
- 7. That the financial impact of such disallowance could not be evaluated immediately and was done during finalisation of Annual Accounts for 2013-14 of the Appellant in April, 2014.**

- 8. Thereafter, on 12.6.2014, the learned Commission passed the APR Order for the FY 2012-13 where the Commission, among other things, had again rejected the claim of the Appellant company on the issues of carrying cost of regulatory assets as well prior period depreciation.**
- 9. The Appellant directed the auditing of the accounts to note the financial impact of both the APR orders of 9.9.2013 and 12.6.2014. The internal audit of the Appellant company which was conducted revealed that the disallowance of the carrying cost of regulatory assets as well prior period depreciation for FY 2011-12 and FY 2012-13 had led to increase in the disallowed expenditure for the Appellant company. Therefore, the Appellant company decided to appeal against both the APR Orders. The Appellant company filed an appeal against the APR Order dated 12.6.2014 before this Hon'ble Tribunal."**

The delay of 44 days in re-filing the appeal has also been properly explained.

Sufficient time has been given to the State Commission to file reply. However, no reply is filed by the State Commission.

In the circumstances and considering the explanation offered by the applicant/appellant which appears to us to be acceptable, we think that this is a fit case where the delay can be condoned after saddling the applicant/appellant with costs. Hence, the delay in filing as well as re-filing the appeal is condoned subject to the condition that the applicant/appellant shall pay cost of Rs. 25,000/- (Rupees twenty five

thousand) to a charitable organisation, namely **“Blind Persons’ Association, S.B. Ac. No. 0143010101125 with United Bank of India, Garia Branch, Kolkata”** on or before 12.11.2015. If the costs are not paid as directed, the appeal shall stand dismissed.

After receiving the compliance report Registry is directed to number the appeal and list for admission on **23.11.2015**.

(I.J. Kapoor)
Technical Member
ts/mk

(Justice Ranjana P. Desai)
Chairperson