

Court-I

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

**IA No. 319 of 2015 in
DFR No. 1638 of 2015**

Dated : 6th October, 2015

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

In the matter of:

Uttar Pradesh Power Corporation Ltd.

...Appellant(s)

Versus

**Uttar Pradesh Electricity Regulatory Commission
& Ors.**

...Respondent(s)

Counsel for the Appellant(s) : Mr. Amit Kapur
Mr. Vishal Anand
Mr. Samir Malik

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

Mr. Rahul Srivastava for R.2

Mr. M.G. Ramachandran
Mr. Kumar Mihir for R.4

ORDER

**IA No. 319 of 2015
(Appl. for condonation of delay)**

There is 307 days delay in filing the appeal. The delay is caused on account of pendency of the review petition. Following explanation is offered by the applicant/appellant:

“The present application is being filed seeking condonation of 307 days delay in filing the present appeal challenging the order dated 10.09.2014. It is submitted that delay in challenging the order dated 10.09.2014 before this Hon'ble Tribunal is bona fide and has been caused

since Appellant filed the review petition against the Order dated 10.09.2014 before Ld. Uttar Pradesh Commission. The sequence of events up to the date of filing the present appeal justifying the said delay is as under:

“(a) On 11.09.2014, the Appellant became aware of the Order dated 10.09.2014, when the same was communicated by Ld. Uttar Pradesh Commission to the appellant.

(b) On 22.10.2014, the Appellant filed Review Petition before Ld. Uttar Pradesh Commission within the period of limitation prescribed in UPERC (Conduct of Business) Regulations, 2004. It is submitted that the Appellant had perused and contested the Review petition diligently before Ld. Uttar Pradesh Commission without any laches on its part.

(c) On 21.07.2015, Ld. Uttar Pradesh Commission disposed of the Review Petition and the Petition by its review order. It is submitted that review order was communicated by Ld. Uttar Pradesh Commission to applicant by its letter dated 22.07.2015.

(d) On receipt of the said letter dated 22.07.2015, the Appellant sought internal permissions to file the present Appeal. Once necessary internal approvals were given, the Appellant on 31.07.2015 instructed its present counsel to draft the appeal.

(e) Thereafter, on 11.08.2015 necessary documents for drafting the appeal were given to the present counsel.

(f) Based on the aforesaid instructions and documents supplied, the present counsel drafted the Appeal and the same was circulated to the Appellant on 13.08.2015 for Appellant’s approval for filing.

(g) On 26.08.2015, approval for filing the present Appeal was given by the Appellant to its counsel. Immediately thereafter, paper book(s) for filing the present appeal was prepared after incorporating changes suggested by the Appellant.

(h) Accordingly, the present appeal is being filed today before this Hon'ble Tribunal."

The above explanation is acceptable. Hence, delay is condoned. Application is disposed of.

DFR No. 1638 of 2015

Admit. Issue notice on the Appeal as well as on the application for stay. Mr. C.K. Rai takes notice on behalf of Respondent No.1; Mr. Rahul Srivastava takes notice on behalf of Respondent No.2 and Mr. M.G. Ramachandran takes notice on behalf of Respondent no.4. Notice be issued to the other respondents returnable on 20.10.2015. Dasti in addition is permitted.

Learned counsel for Respondent No.4 seeks ten days time to file reply to the application for stay. He may file the same on or before 16.10.2015 after serving copy on the other side. Thereafter rejoinder, if any, may be filed after serving copy on the other side.

List the matter on **20.10.2015**.

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

(Justice Ranjana P. Desai)
Chairperson