

COURT-I

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

**IA NO. 611 OF 2017 IN
DFR NO. 2288 OF 2017**

Dated: 25th October, 2017

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

In the matter of:

M/s Green Energy Association

... Appellant(s)

Vs.

Jharkhand State Electricity Regulatory Commission & Anr.

.... Respondent(s)

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

Counsel for the Respondent(s) : Mr. Farrukh Rasheed for R-1
Mr. Saurav Agrawal
Mr. Shantanu Agrawal for R--2

ORDER

**IA NO. 611 OF 2017
*(Appln. for condonation of delay)***

There is 94 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. Farrukh Rasheed appears on behalf of Respondent No.1 and Mr. Saurav Agrawal appears on behalf of Respondent No.2.

We have heard learned counsel for the Appellant and learned counsel for Respondent No.2.

Learned counsel for the Appellant has drawn our attention to the explanation offered in the application, which reads as under:

“3. The impugned Order dated 28.02.2017 was communicated to the Appellant on 03.03.2017 by post. Upon receiving a copy of the Order, the Appellant was shocked to see that the Learned State Commission in complete contravention of Jharkhand State Electricity Regulatory Commission (Renewable Purchase Obligation and its Compliance) Regulations, 2010 exempted TSL from applicability of RPO Regulations, 2010 for the FYs 2011-12, 2012-13 and 2013-14.

4. In the instant matter there is a delay of 94 days however, the same is bona fide. The Impugned Order passed on 28.02.2017, was received by the Appellant on 03.03.2017. The Appellant thereafter convened an internal meeting with its board members on 10.03.2017 to decide the next course of action.

5. In the aforementioned meeting it was observed by the members that they had good grounds for Appeal as the Impugned Order is contrary to the RPO Regulations and is bad in law. Thus, it was decided that an appeal must be filed before this Hon’ble Tribunal.

6. Accordingly, the Appellant approached the present counsels seeking legal opinion. A meeting was organised on 16.03.2017 and it was decided that an appeal must be filed. The first draft of the Appeal was prepared on 15.04.2017 and was circulated to the Appellant. The said draft was sent back to the counsels with the Appellant’s comments on 24.04.2017. Necessary changes were made

by the counsels and the new draft was circulated to the Appellant on 01.05.2017.

7. Upon receiving the approval of the Appellant the counsel for the Appellant sent the documents required for filing to the Appellant on 08.05.2017. 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 counsels for the Appellant only on 17.07.2017 and therefore the Appeal has been filed on 20.07.2017 with a delay of 94 days. In view of the facts mentioned herein it is submitted that the delay is inadvertent and bona fide.”

Learned counsel submitted that the appeals involving similar issues have already been admitted by this Tribunal. She submitted that sufficient cause has been made out and hence, in the interest of justice the delay may be condoned in this matter.

Learned counsel for Respondent No.2, on the other hand, objected to the condonation of delay. He submitted that the impugned order was communicated to the Appellant on 03.03.2017. In paragraph No.7 of the application, it is stated that upon receiving the approval of the Appellant the counsel for the Appellant sent the documents required for filing to the Appellant on 08.05.2017. 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. Counsel submitted that this explanation is extremely vague and this Tribunal should not accept it and delay should not be condoned.

While considering this application, we must take into account the fact that the Appellant is an Association. In the peculiar facts and circumstances of the case and considering the fact that the appeals involving the similar issues have already been admitted, we feel that some latitude needs to be shown to the Appellant. In the circumstances, we are of the opinion that delay deserves to be condoned after saddling the Appellant with costs. Accordingly, the Appellant is directed to pay the cost of Rs.10,000/- (Rs. Ten thousand only) to “**National Defence Fund, PAN No: AAAGN0009F, Collection A/c No: 11084239799 with State Bank of India, Institutional Division, 4th Floor, Parliament Street New Delhi**” on or before 23.11.2017. Application is disposed of.

After receiving the compliance report, Registry is directed to number the appeal and list it for admission on **06.12.2017**.

(I. J. Kapoor)
Technical Member

ts/tpd

(Justice Ranjana P. Desai)
Chairperson