

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
AT NEW DELHI**

(APPELLATE JURISDICTION)

I.A. NO. 298 OF 2015

IN

(DFR No.1462 of 2015]

Dated: 5th November, 2015

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

In the matter of:-

**TATA POWER DELHI)
DISTRIBUTION LIMITED,)
NDPL House, Hudson Line,)
Kingsway Camp, Delhi – 110 009.) ... Applicant**

AND

**DELHI ELECTRICITY)
REGULATORY COMMISSION,)
Viniyamak Bhawan, 'C' Block,)
Shivalik, Malviya Nagar, New Delhi –)
110 017.) ... Respondent**

**Counsel for the Appellant(s) : Mr. Gopal Jain, Sr. Advocate
Mr. Alok Shankar,
Mr. Anjani Kumar Singh
Mr. Gaurav Dhama**

**Counsel for the Respondent(s) : Mr. Prashant Bezboruah
Ms. Nooreen Anwar**

ORDER

PER HON'BLE (SMT.) JUSTICE RANJANA P. DESAI - CHAIRPERSON

1. The Applicant – Tata Power Delhi Distribution Limited, had filed a petition in the Delhi Electricity Regulatory Commission (“**the State Commission**”) being Petition No.18 of 2011 for approval of terms and conditions for procurement of entire solar energy generated from 60 KW Solar Project at DSIDC-II Grid, Narela, Delhi. By the impugned order, the State Commission directed the Applicant to obtain renewable energy certificate for availing of the benefit of environmental component. Being aggrieved by the said order, the Applicant has preferred the instant appeal. There is a delay of 106 days in filing the appeal and, hence, the Applicant has filed the present application praying that the delay may be condoned.

2. The impugned order is dated 7/1/2015. According to the Applicant, it was communicated to the Applicant on 19/2/2015. Thus the limitation of 45 days came to an end on 4/4/2015. The appeal was filed on 20/7/2015. This is how there is 106 days' delay in filing the appeal.

3. In the application, it is stated that the Applicant had filed an appeal before this Tribunal being Appeal No.82 of 2015 wherein it has prayed for determination of tariff and was expecting that in accordance with the desired outcome, no appeal is required. It is further stated that, however, since as of now, the tariff has not been determined in the said matter, which is pending for adjudication, the Applicant has no choice but to file the present appeal. It is further stated that the delay has been further caused for getting the CoD corrected because the State Commission has considered the wrong CoD for the Applicant's project as 29/11/2011 whereas the date of CoD issued by the Electrical Inspector's Certificate is 29/7/2011.

4. Affidavit in Reply has been filed by the State Commission in which it is pointed out that the order which is impugned in the present appeal is different from the order dated 19/1/2015 which was challenged in Appeal No.82 of 2015. It is further stated that Appeal No.82 of 2015 and the present

appeal relate to two different projects. It is alleged that therefore the Applicant has tried to cover up the delay by relying on unsustainable grounds. It may be stated here that Mr. Jain, learned counsel for the Applicant has conceded that inadvertently, the Applicant has given a wrong appeal number. In fact, the number of the appeal is 30 of 2011. Counsel has expressed regret for this error. Counsel submitted that the Applicant may not be denied its statutory right to challenge the impugned order because of this inadvertent error. Counsel submitted that the appeal involves important question of law and facts and, hence, the delay may be condoned.

5. Counsel for the State Commission, on the other hand, strenuously opposed the condonation of delay. He pointed out that the statement made in paragraph 4 of the application for condonation of delay is also a wrong statement because no application has been filed to correct the CoD. Mr. Jain on instructions denied this allegation. On this disputed issue, we

do not want to express any opinion at this stage because that can only be considered at the final hearing of the appeal.

6. We are of the opinion that considering the issues involved in this appeal, the Applicant must be given a chance to challenge the impugned order. Mentioning wrong number of appeal in the application for condonation, for which regret is expressed by the Applicant's counsel, does not lead to the explanation offered being unacceptable. We, however, feel that the application for condonation of delay ought to have been drafted with more care and caution. Such negligent and careless approach in filing the application needs to be deprecated. To this extent, the grievance of the counsel for the State Commission is perfectly justified. We, therefore, propose to condone the delay by saddling the Applicant with costs.

7. Hence, delay is condoned on the Applicant depositing costs quantified at Rs.10,000/- within three weeks from today with "**The Child Relief and You (CRY)**", having address at

632, 2nd Floor, Lane No.3, West End Marg, Saiyadul Ajaib, New Delhi. Needless to say that if the costs are not deposited, the appeal shall stand dismissed.

8. The application is disposed of in the aforestated terms. After receiving the compliance report, the Registry of this Tribunal is directed to number the appeal and list the matter for admission on 7/1/2016.

9. Pronounced in the Open Court on this 5th day of November, 2015.

I.J. Kapoor
[Technical Member]

Justice Ranjana P. Desai
[Chairperson]

REPORTABLE/√NON-REPORTABALE