

05.01.2015, the Central Commission passed an order dismissing the Review petition. Thereafter, the Appeal was filed on 27.01.2015. It has been explained that the delay has been due to pendency of the Review petition. The delay of 164 days has been explained as under:-

- (a) Between 02.07.2014 to 28.07.2014: After receiving copy of the impugned order dated 02.07.2014 on 03.07.2014, the Applicant approached his Counsel to seek legal advice. On receiving the legal advice, the Applicant on 28.07.2014 filed the Review Petition before the Central Commission within the period of limitation seeking a review of the impugned order.
- (b) Between 28.07.2014 to 07.01.2015: Review petition was heard and the order dated 07.01.2015 was passed by the Central Commission rejecting the Review petition.
- (c) Between 07.01.2015 to 27.01.2015: After internal review of the Review order, the Applicant approached its legal Counsel and on receiving legal advice the Applicant filed the accompanying Appeal on 27.01.2015.

3. The condonation of delay has been opposed by the Respondent no.2 stating that the Appellant has failed to cite sufficient or reasonable cause for condoning the inordinate delay. Pendency of the Review petition

cannot be treated as sufficient cause for condoning the delay in filing an Appeal. In this regard Learned Counsel for the Respondent no.2 has made the following submissions:

- (a) According to the Implementation Agreement dated 23.11.2007, the WRSSS-II Project B was required to be made ready for commercial operation on 31.03.2010. The Respondent no.2 could not complete the project in time and requested for grant of extension.
- (b) In the order dated 31.12.2010, the Central Commission while approving the extension of 9 months held that the Applicant/Appellant would not be entitled to increase in the transmission service charges by virtue of the extension.
- (c) Thereafter on various occasions the Appellant sought extension of RCOD. The Respondent no.2 extended the RCOD upto 01.01.2014 reiterating that the Appellant would not be entitled for any enhancement of tariff on account of extension of RCOD.
- (d) In view of the order dated 31.12.2010 of the Central Commission, there was no reason for the Applicant to have filed the Review petition against the observation of the Central Commission in the impugned order that the Applicant/Appellant herein had submitted that the extension of RCOD would not

affect the transmission tariff. Accordingly, the time consumed in filling and adjudication of the Review petition cannot be a sufficient ground for condoning the delay in filing the Appeal.

4. According to Learned Counsel for the Applicant/Appellant they had not given any undertaking with regard to impact of the extension of time on transmission tariff in the proceedings before the Central Commission which resulted in the impugned order.

5. We have heard the Learned Counsel for the parties. We find that the submissions made by the Learned Counsel for Respondent no.2 are with respect to the merits of the case. At present we are considering condonation of delay in the Appeal filed against the impugned order dated 02.07.2014. We find sufficient reasons have been given by the Applicant/Appellant for delay in filing the Review petition. Therefore, we deem it appropriate to condone the delay of 164 days in filing the Appeal. Accordingly IA no. 74 of 2015 is disposed of.

6. Post the matter on 06.04.2015 for admission.

(Rakesh Nath)
Technical Member

(Justice Ranjana P. Desai)
Chairperson

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