

**COURT-II**  
**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY**  
(Appellate Jurisdiction)

**IA NO. 1077 OF 2018 IN**  
**DFR NO. 2671 OF 2018**

**Dated : 27<sup>th</sup> September, 2018**

**Present: Hon'ble Mr. Justice N.K. Patil, Judicial Member**  
**Hon'ble Mr. S. D. Dubey, Technical Member**

**In the matter of:**

**M/s Alles Solar Private Limited**

**.... Appellant(s)**

**Versus**

**Bangalore Electricity Supply Company Limited & Ors.**

**.... Respondent(s)**

Counsel for the Appellant(s) : Mr. Anand Sanjay M Nuli,  
Mr. Nanda Kumar K.B.  
Mr. Prawal Mishra

Counsel for the Respondent(s) : Mr. Shahbaz Hussain  
Mr. Fahad Khan for R-1  
  
Mr. Shiva D.  
Mr. Joseph Aristotle S. for R-2

**ORDER**

Learned counsel, Mr. Shiva D., appearing for the second Respondent, prays for two weeks time to file his vakalatnama.

Submission made by the learned counsel appearing for the second Respondent, as stated above, is placed on record.

Learned counsel appearing for the second Respondent is permitted to file his vakalatnama in the matter by 11.10.2018.

**(IA No. 1077 of 2018)**  
**(For Condonation of Delay in Filing the Appeal)**

We have heard the learned counsel appearing for the Appellant and the learned counsel appearing for the first Respondent. Respondent Nos. 3 & 4, though served, are unrepresented.

The learned counsel, Mr. Anand Sanjay M. Nuli, appearing for the Appellant, submitted that, there is a delay of 142 days in filing the appeal which has been

explained satisfactorily in paras 3 & 4 of the application and sufficient cause has been shown therein. The delay in filing the appeal is bonafide and unintentional on the ground that the Appellant being aggrieved by the impugned Order dated 18.01.2018 in O.P. No. 144/2017 passed by the Karnataka Electricity Regulatory Commission, Bengaluru had approached the Hon'ble High Court of Karnataka on 26.03.2018 for redressal of their grievances Writ Petition No.13460/2018 (GM-KEB) and the same was disposed of as not maintainable, with a liberty to the Petitioner (Appellant herein) to avail alternative remedy of appeal as contemplated under the provisions of Section 111 of the Electricity Act, 2003 within a period of three weeks from the date of receipt of the order, till such time the Appellant herein was to ensure the benefit of the interim order granted by the Hon'ble High Court of Karnataka. Accordingly, the Appellant herein has immediately coordinated with the counsel at Delhi and instructed to file the appeal, due to which the delay has been caused. Therefore, he submitted that, the delay may kindly be condoned and IA may kindly be allowed. The matter may kindly be heard on merit in the interest of justice and equity.

***Per-contra***, the learned counsel, Mr. Shahbaz Hussain, appearing for the first Respondent has filed a detailed statement of objections opposing the condonation of delay. As stated in paragraph 7 of the statement of objection, he submitted that, it is a settled law that in an application for condonation of delay, each day has to be explained and bonafide and justifiable reasons have to be assigned to the satisfaction of the competent Court or Tribunal. Therefore, the application filed by the Appellant may be dismissed on the ground of delay and latches.

After careful consideration of the submissions made by the learned counsel appearing for the Appellant and perusal of the reasons assigned in paragraphs 3 & 4 of the Application and the stands taken by learned counsel appearing for the first Respondent in paragraph 7 of his statement of objections, what has emerged is that it is not in dispute that the Appellant has filed a writ petition before the High Court of Karnataka and the same matter stands disposed of as not maintainable with a liberty to the Petitioner (Appellant herein) to avail alternative remedy of appeal as contemplated under the provisions of Section 111 of the Electricity Act,

2003. We find that the delay has been explained satisfactorily as sufficient cause has been shown and reasoning assigned is bonafide in nature keeping this fact into consideration and also taking into note that similar matters are pending for adjudication before this Tribunal on the same subject matter. Keeping this fact into consideration the application filed by the Appellant for delay in filing the appeal is condoned. IA is allowed.

**DFR NO. 2671 OF 2018**

Registry is directed to number the appeal and list the matter for admission on **01.10.2018**.

**(S.D. Dubey)**  
**Technical Member**  
vt/kt

**(Justice N.K. Patil)**  
**Judicial Member**