

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

I.A. No.103 of 2014

IN

DFR NO.228 of 2014

Dated: 28th Feb, 2014

**Present: HON'BLE MR. JUSTICE M KARPAGA VINAYAGAM,
CHAIRPERSON
HON'BLE MR. RAKESH NATH, TECHNICAL MEMBER**

In the Matter of:

**M/s. Spectrum Power Generation Limited.,
Plot No.231, 8-2-293/82/A/231,
3rd Floor, Road No.36,
Jubilee Hills,
Hyderabad-500 033**

...Appellant/Applicant

Versus

- 1. Andhra Pradesh Electricity Regulatory Commission,
11-4-660, 4th and 5th Floors,
Singareni Bhavan, Red Hills,
Hyderabad-500 004
Andhra Pradesh**
- 2. Transmission Corporation of Andhra Pradesh Ltd.,
Vidyut Soudha,
Khairatabad,
Hyderabad-500 004**
- 3. Central Power Distribution Company of Andhra
Pradesh Limited.,
11-5-423/1/A, First Floor,
Singareni Collieries Bhavan,
Lakdi-ka-pul, Hyderabad-506 001**

4. **Southern Power Distribution Company of Andhra Pradesh Limited.,
Upstairs, Hero Honda Showroom,
Renigunta Road,
Tirupati-517 501**
5. **Northern Power Distribution Company of Andhra Pradesh Limited.,
11-5-423/1/A, First Floor,
1-7-668, Postal Colony,
Hanamkonda, Warangal-506 001**
6. **Eastern Power Distribution Company of Andhra Pradesh Limited.,
Sai Shakti, Opposite Saraswati Park,
Daba Gardens,
Vishakhapatnam-530 020**
7. **AP Power Co-ordination Committee,
Vidyut Soudha, Khairatabad,
Hyderabad-500 004**

...Respondent(s)

Counsel for the Appellant(s) : Mr. Matrugupta Mishra

Counsel for the Respondent(s): Mr. Aditya Ganju for R-2 & 3

O R D E R

**PER HON'BLE MR. JUSTICE M. KARPAGA VINAYAGAM,
CHAIRPERSON**

1. This is an Application to condone the delay of 268 days in filing the present Appeal as against the Impugned Order

dated 15.3.2013 passed by the Andhra Pradesh State Commission.

2. M/s. Spectrum Power Generation Limited, the Applicant/Appellant is a Generating Company.
3. The Transmission Corporation of Andhra Pradesh Limited is the 2nd Respondent. It was earlier engaged in the business of purchase and sale of electricity in the State of Andhra Pradesh. The other Respondents namely Respondent 3 to 6 are engaged in the business of purchase and distribution of electricity. Respondent 7 is the Co-ordination Committee constituted by the Government of Andhra Pradesh.
4. The Applicant/Appellant on 19.4.2008, filed a Petition in OP No.6 of 2012 before the Andhra Pradesh State Commission seeking for the direction to R-2 to 7 to the refund of a sum of Rs.2,77,90,832/-being the admitted liability towards the Minimum Guaranteed off-take. The Respondents have filed a Counter disputing the said claim.
5. Upholding the objection raised by the Respondents, the State Commission by the Impugned Order dated 15.3.2013 dismissed the Petition filed by the Applicant.
6. Aggrieved by this order, the Applicant/Appellant filed the Appeal before this Tribunal on 22.1.2014 along with an

Application to condone the delay of 268 days in filing the Appeal.

7. The learned Counsel appearing for the Applicant/Appellant argued the matter giving the details of the explanation for the said delay as referred to in the Application. The explanation in brief, is as follows:

“The Impugned Order was passed by the Andhra Pradesh Commission on 15.3.2013. The said order was received by the Appellant on 25.3.2013. The Legal head of the Applicant/Appellant prepared the office note for filing the Appeal before this Tribunal. Upon receiving the internal approval, the Legal head on 15.5.2013, forwarded the entire set of documents to the concerned Advocate in Delhi for preparation of Appeal. However, the legal head had resigned in the meantime and left the Appellant’s Company informing the Appellant that he had already taken steps to file the Appeal before this Tribunal through the Delhi Advocate. But only in December, 2013, the Applicant/Appellant came to know that the Appeal was not filed by the concerned advocate in Delhi. Thereafter, papers and documents were sent to the present Advocate’s office in the first week of January, 2014. After the draft Appeal was approved by the

Applicant/Appellant, the Appeal was filed on 22.1.2014. That was how the delay was caused. The delay was caused only due to the communication gap created between the legal head and the Advocate in Delhi. Therefore, the delay may be condoned”.

8. We have perused the Application to condone the delay and carefully considered the submissions made by the learned Counsel for the Applicant/Appellant.
9. We feel that there is no satisfactory explanation offered by the Appellant both in the Application as well as in the oral submissions made by the learned Counsel for the Applicant/Appellant.
10. Admittedly, the Impugned Order passed on 15.3.2013, has been received by the Appellant as early as on 25.3.2013. It is stated that the Legal head forwarded the entire sets of documents along with internal approval only on 15.5.2013. It took nearly two months. There is no proper explanation for this period. Further, it is stated that the Legal head had resigned and left the Appellant's Company. There is no reference about the date on which the Legal head had resigned. Once the Legal head had resigned, the responsibility of looking into the matter in filing the Appeal must have been entrusted to some other lawyer to pursue

the matter in Delhi. There are no details in the Application as to whether such responsibility was entrusted to any other lawyer or person in the Legal panel after the Legal head had resigned the job.

11. It is stated in the Application that only in December, 2013, the Appellant came to know that no such Appeal was filed before this Tribunal.
12. Admittedly, there are no particulars given in the Application as to what steps the Appellant Company had taken after the Legal head resigned the job to pursue the matter with the Delhi Advocates for filing the Appeal. It is also not stated as to how and from whom the Appellant Company came to know in December, 2013 that no Appeal was filed in the Tribunal.
13. As mentioned above, in the absence of any such details, we are constrained to hold that the Appellant Company was not diligently pursuing the matter by taking steps to file the Appeal.
14. As such, we find that there is no sufficient cause shown to condone the delay.

15. Hence this Application to condone the delay is dismissed.
Consequently, the Appeal also is rejected.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

Dated:28th Feb, 2014

✓ ~~REPORTABLE/NON-REPORTABLE~~