

**Before the Appellate Tribunal for Electricity
(Appellate Jurisdiction)**

**I.A. No. 77 of 2011 in
D.F.R. No. 1888 of 2009**

Dated : 4th August, 2011

**Present : Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson
Hon'ble Mr. V.J. Talwar, Technical Member**

In the matter of:

M/s Awadh Wood Products Appellant (s)

Versus

U.P.P.C.L & Ors. ...Respondent (s)

Counsel for Appellant (s) : Mr. Anuj Kumar for Mr. Arvind Kumar
Counsel for Respondent (s): Mr. Pradeep Misra & Mr. Daleep Dhayani
for R.1 & R.2

ORDER

**I.A. No. 77 of 2011
(*Condone delay Application*)**

This is an Application to condone the delay of 2227 days in filing the Appeal against the Order of the Commission dated 17.11.2003.

We have heard the learned counsel for the Petitioner as well as the Respondent. The explanation which has been given in the affidavit by the Petitioner/Appellant is that immediately after the impugned Order that was passed by the Commission on 17.11.2003, the Petitioner/Appellant had filed the Appeal before the High Court on 09.01.2004. The same was entertained and the said Appeal was

pending before the High Court up to 2009. When the matter was taken up for disposal by the High Court on 09.11.2009, it was pointed out that the Appeal must have been filed before the Appellate Tribunal for Electricity. On that ground the said Appeal was dismissed by the High Court with a liberty to the Petitioner/Appellant to prefer an Appeal before the Appellate Tribunal for Electricity. Immediately, thereafter, on 24.12.2009, the Appeal has been filed before this Tribunal, that is how the huge delay was caused.

On going through the affidavit, it is clear that the immediate steps have been taken to file the Appeal before the High Court in January 2004. Admittedly, the Appellate Tribunal was begun functioning only from July 2005. Only when the Hon'ble High Court came to know about the functioning of this Tribunal, it dismissed the Appeal with a liberty to the Petitioner/Appellant to approach this Tribunal.

Though the delay is enormous, we feel that the delay can be condoned in view of the fact there is no lack of diligence on the part of the Petitioner/Appellant in prosecuting the matter. Therefore, we deem it appropriate to condone the delay. Accordingly, the delay is condoned. The Application is disposed of.

The Registry is directed to number the Appeal. Post the matter for Admission on **17.08.2011.**

**(V.J. Talwar)
Technical Member**

**(Justice M. KarpagaVinayagam)
Chairperson**

TS/KS