

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

**I.A. No. 225 of 2011 in  
Appeal No. 124 of 2011**

**Dated: 7<sup>th</sup> December, 2011**

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

**In the matter of:**

**Uttar Pradesh Power Corporation Ltd. ....Appellant (s)  
Versus**

**M/s Basti Sugar Mills Company Limited & Anr. ... Respondent (s)**

Counsel for the Appellant (s) : Mr. Pradeep Misra &  
Mr. Manoj Kr. Sharma

Counsel for the Respondent (s): Mr. R.N. Sharma,  
Mr. Sanjeev Singh,  
Mr. Abeer Kumar &  
Mr. Siddharth Kochhar for R.1

**ORDER**

This is an Application to condone the delay of 2777 days in filing the Appeal before this Tribunal.

Admittedly, the impugned Order had been passed on 04.09.2003. It is stated by the applicant/appellant that as against this Order they have filed an Appeal before the High Court on 19.12.2003; the matter was taken up for final disposal and the High Court by the Order dated 28.03.2011, directed the Applicant/Appellant to approach this Tribunal and file this Appeal and that was how, the delay was caused.

There is a serious objection on the part of the Respondent with regard to the lack of diligence on the part of the Applicant/Appellant in not prosecuting the matter by approaching proper forum in time.

It is noticed that the Appeal in the High Court was filed as early as on 19.12.2003 and the High Court entertained the Appeal and ultimately the final Order had been passed on 28.03.2011 holding that the High Court has no jurisdiction to decide the issue and directing the Applicant/Appellant to approach this Tribunal. Under those Circumstances, this Appeal has been filed with delay.

Though the objection has been raised with regard to the merits, we feel that the merits of the matter could be considered during the proceedings in the Appeal. So, the delay of 2777 days is condoned. The Application is disposed of.

The Registry is directed to number the Appeal and post for Admission on **02.02.2012**.

The learned counsel for the Respondent seeks permission to question the maintainability of the Appeal. He can do so on the date of admission.

**(V. J. Talwar)**  
**Technical Member**  
TS/SS

**(Justice M. Karpaga Vinayagam)**  
**Chairperson**