

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

**IA No. 90 of 2014 IN**  
**DFR No. 303 of 2014**

**Dated : 7<sup>th</sup> March, 2014**

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson**  
**Hon'ble Mr. Rakesh Nath, Technical Member**

**Gujarat Urja Vikas Nigam Ltd. ... Appellant(s)**  
**Versus**

**G.E.R.C. & Anr. ....Respondent(s)**

**Counsel for the Appellant (s) : Mr. M.G. Ramachandran**  
**Mr. Anand K. Ganesan**  
**Counsel for the Respondent(s) Mr. Amit Kapur**

**ORDER**

**IA No. 90 of 2014**  
**(Appl. for condonation of delay)**

This is an Application to condone the delay of 120 days in filing the Appeal against the impugned Order.

We have heard the learned counsel for both the parties in the Application to condone the delay.

The main reason for the delay is that originally the appellant/applicant instead of filing an Appeal before this Tribunal as against the main Order dated 08.08.2013 passed by the State

Commission under Section 111 of the Electricity Act, 2003, thought it fit to file the review before the State Commission as there were some errors.

Accordingly, the Review Petition was filed on 07.11.2013 by the Applicant and the same was entertained by the State Commission. However, in the meantime, the Respondent also filed an Application under section 142 of the Act for initiating the action against the Applicant/Appellant for non-compliance of the impugned Order. In these circumstances, the Applicant/Appellant has now felt that it would be appropriate to file an Appeal before this Tribunal as against the Order dated 08.08.2013 as it would take more time for the disposal of the Review.

Accordingly, the Applicant has filed the present Appeal on 29.01.2014. That was how the delay of 120 days was caused.

We have heard the learned counsel for both the parties in the Application to condone the delay. When we express our reluctance to entertain this Application to condone the delay in filing the Appeal during the pendency of the Review before the State Commission, the learned counsel for the Applicant/Appellant

undertakes that the Applicant would file an Application before the State Commission for withdrawal of the Review petition pending before the State Commission at the earliest. In view of this undertaking, we direct the State Commission to entertain the said Application for withdrawal and give permission to the Applicant to withdraw the same and pass the order accordingly. This would enable us to proceed with the present Appeal. We have heard the learned counsel for the Respondent also in this Appeal.

In view of the above development and the submissions made by both the parties in the Application to condone the delay, we deem it appropriate to condone the delay. Accordingly, the Application is allowed.

The Registry is directed to number the Appeal after verification of the withdrawal of the Review before the State Commission and post for Admission on **03.04.2014**.

**(Rakesh Nath)**  
**Technical Member**

Ts/js

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