

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

**I.A. No. 320 of 2013 in
DFR No. 530 of 2011**

Dated: 11th October , 2013

**Present: Hon'ble Mr. Rakesh Nath, Technical Member
Hon'ble Mr. Justice Surendra Kumar, Judicial Member**

In the matter of:

1. Karnataka Power Transmission Corporation Limited,
Kaveri Bhavan,
Bangalore-560 009
2. Chamundeshwari Electricity Supply Corporation Limited,
927, LJ Avenue Commercial Complex,
New Katharaj Urs Road,
Saraswathipuram,
Mysore-570 009

....Applicants

Vs.

M/s. Vijayalakshmi Hydro Power Limited,
H. No. 2, 40 Feet Road,
Off: Kalpana Chawla Road,
4th Cross, 5th Main, Bhoopasandra,
Sanjaynagar,
Bangalore-560 094

... Respondent

Counsel for the Applicant(s) : Mr. A.M. Shodhan Babu

ORDER

I.A. No. 320 of 2013 in DFR No. 530 of 2011
has been filed by Karnataka Power Transmission

Corporation Ltd. & Anr. for condonation of delay in re-filing the Review Petition against the Judgment dated 16.12.2010 of this Tribunal passed in Appeal no. 47 of 2010 whereby the Tribunal had allowed the Appeal filed by the Respondent herein and part of the impugned order of the State Commission dated 16.04.2009 was set aside with direction to pay interest in terms of the Agreement.

2. The Applicant has made the following submissions:

- a) The Review Petition was filed before the Tribunal on 6th April, 2011 and the Registry of the Tribunal after verifying the papers, notified the defects vide letter dated 5th May, 2011.

- b) The defects pointed out by the Registry were pointed out to the office of the Petitioners immediately. One of the defects pointed out by the Registry was that the Petition should accompany a Demand Draft for Rs. 30,000/-.
- c) The Counsel dealing with the matter had intimated the Petitioner about the payment towards the court fee but no reply was received from them. However, after long period of time, it was informed by the Petitioner that the DD for Rs. 30,000/- had already been sent to the counsel at Delhi for filing of the Review Petition.
- d) On getting the information recently a thorough search was made in the office of the

Counsel and it was found that Petitioners had forwarded a demand draft of Rs. 30,000/- much before the filing of the Review Petition. It was found that one of the typists in the office of the Counsel had misplaced the Demand draft but the same was not within the knowledge of the Counsel who is dealing with the matter.

- e) The Review Petition was not processed further only because of the belief that the Demand draft for Rs. 30,000/- had not been forwarded to the Counsel for filing of Review Petition.

3. On the basis of above, the Applicant has sought condonation of delay of 860 days in re-filing the Review Petition.

4. We notice that the Review Petition was first filed on 6th April, 2011 after a delay of 49 days beyond the period of 30 days allowed for filing the Review Petition. No explanation for delay in filing the Review Petition has been given in the Application.

5. We are not satisfied with the explanation given by the Applicant for inordinate delay of 860 days in re-filing the Review Petition. We find that the Applicant has not been diligent in filing and re-filing the Review Petition. This Tribunal has earlier held that the delay in filing of Review Petition beyond the permissible period of 30 days could not be condoned by the Tribunal. In the present case there was delay in filing of the Petition by 49 days for which no explanation has been given and not only that, there is a delay of 860 days in re-filing of Review Petition. By delaying the

filing of the Review Petition inordinately, the Applicant has denied the benefit in terms of payment of interest which had accrued to the Respondent by the impugned judgment of the Tribunal.

7. In view of above, we reject the IA for condonation of delay as also the Review Petition filed by the Applicants. No order as to costs.

8. Pronounced in the open court on this
11th day of October, 2013.

(Justice Surendra Kumar)
Judicial Member

(Rakesh Nath)
Technical Member

√
REPORTABLE/~~NON-REPORTABLE~~

vs