

**COURT-I**  
**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY**  
(Appellate Jurisdiction)

**IA No. 1087 of 2019 IN**  
**DFR No. 2131 of 2019**

**Dated : 3<sup>rd</sup> October, 2019**

**Present: Hon'ble Mrs. Justice Manjula Chellur, Chairperson**  
**Hon'ble Mr. Ravindra Kumar Verma, Technical Member**

**In the matter of:**

**Chhattisgarh State Load Despatch Centre** .... **Appellant(s)**

**Vs.**

**M/s. Sai Lilagar Power Generation Ltd. & Ors.** .... **Respondent(s)**

Counsel for the Appellant (s) : Mr. Pradeep Misra

Counsel for the Respondent (s) : Mr. Anand K. Ganesan  
Ms. Swapna Seshadri for R-1

Mr. C.K. Rai  
Mr. Sachin Dubey for R-3

**ORDER**

1. This is an Application seeking for the Condonation of Delay of 297 days in filing the Appeal as against the Impugned Order dated 19.06.2018 passed by the Chhattisgarh State Electricity Regulatory Commission.
2. Sai Lilagar Power Generation Ltd., the Respondent No.1 herein, filed a Petition No. 61 of 2019 (M) before the State Commission for issuing necessary directions for non-compliance of the order dated 07.05.2015 of the State Commission wherein Applicant was directed to pay the interest amount to the Respondent No.1 within one month from the date of issue of the Impugned Order since the interest liability has arisen due to non compliance of the Impugned order, the interest

amount paid by SLDC shall be borne by it and shall not be passed on to the consumers.

3. The explanation offered by the Applicant for the delay is as follows:
- i) The State Commission passed the Impugned Order dated 19.06.2018 which was communicated to the Applicant by State Commission vide letter dated 19.06.2018 which was received on 20.06.2018.
  - ii) After receiving the Impugned Order as per advice given the Applicant has filed Review petition No. 48 of 2018 which was disposed of vide order dated 07.01.2019.
  - iii) Thereafter the said order was corrected and a certified copy of the order dated 07.01.2019 was sent by the State Commission vide letter dated 12.04.2019 which was received by the SLDC on 15.04.2019.
  - iv) Thereafter matter was considered and it was decided to prefer an appeal against the Impugned Order and record was sent to the counsel for the Applicant at Delhi in the third week of May 2019.
  - v) Thereafter appeal was preferred an officer was deputed who reached Delhi on 25.05.2019 and thereafter appeal is being filed.

- vi) The Appeal is being filed within 45 days from the date of communication of order dated 07.01.2019, however there is a delay from the Impugned Order.
  - vii) The delay of 297 days has been caused due to pendency of the Review Petition which is bonafide unintentional and liable to be condoned in the interest of justice.
4. **Per contra**, this Application is stoutly opposed by the learned counsel for the Respondent No.1 by filing a detailed reply. It is strenuously contended by the learned counsel for the Respondent No.1 that the Applicant has presented the instant appeal without providing sufficient explanation. The Applicant filed the present appeal on 27.05.2019 after an inordinate and unexplained delay of 342 days. The State Commission passed the Impugned Order dated 19.06.2018 which was communicated to the Applicant vide letter dated 19.06.2018 which was received on 20.06.2018. Thereafter the Applicant filed Review Petition No. 48 of 2018 which was disposed of vide order dated 07.01.2019. Thereafter the order dated 07.10.2019 was corrected and a certified copy of the same was sent to the Applicant vide letter dated 12.04.2019 which was received by the Applicant on 15.04.2019.
5. The Applicant has not given any explanation to show that the review order dated 07.01.2019 was communicated to the Appellant on 15.04.2019 and where the orders passed by the state Commission are promptly uploaded on the website and readily available. The contention of the Appellant that the order dated 07.01.2019 was corrected is beyond comprehension as to what correction was carried out in the order. The application for condonation of delay filed by the Appellant

lacks bonafide and is an abuse of the process of law. The application is therefore liable to be dismissed with heavy cost.

6. Having regard to the submissions of the learned counsel for both the parties and also the contents of the explanation as well as the reply, our considerations as follows:-

- i) The impugned Order was passed by the State Commission on 19.06.2018 and the same was received by the Applicant on 20.06.2019. The State Commission passed the Impugned Order dated 19.06.2018 which was communicated to the Applicant by State Commission vide letter dated 19.06.2018 which was received on 20.06.2018.
- ii) After receiving the Impugned Order the Applicant has filed Review petition No. 48 of 2018 which was disposed of vide order dated 07.01.2019. Certified copy of the order dated 07.01.2019 was sent by the State Commission vide letter dated 12.04.2019 which was received by the SLDC on 15.04.2019.
- iii) Thereafter matter was considered and it was decided to prefer an appeal against the Impugned Order and record was sent to the counsel for the Applicant at Delhi in the third week of May 2019. Thereafter appeal was preferred an officer was deputed who reached Delhi on 25.05.2019 and thereafter appeal is being filed.
- iv) We observe that the Applicant was not in a position to assess the financial impact of the Order dated 19.06.2018 to pay the interest amount to the Respondent No.1 within one month from the date of

issue of the Impugned Order. Therefore, the Applicant was advised to file review petition to review the said Order by way of Review Petition.

- v) The conduct, behavior and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. However, the Hon'ble Supreme Court generally adopts a liberal approach in condonation of delay finding somewhat sufficient cause to decide the appeal on merits.
- vi) Accordingly, we think it appropriate to hear the appeal on merits and decide. We allow the application on payment of cost of **Rs. 5000/- (Rupees five thousand only) to a charitable organization**, namely, **“National Defence Fund, PAN No. AAAGN0009F, A/c No. 11084239799, State Bank of India, Institutional Division, 4<sup>th</sup> Floor, Parliament Street, New Delhi”** within two weeks from today. Application is disposed of.

List the matter for admission on **21.11.2019**.

Pronounced in the Open Court on this **3<sup>rd</sup> day of October, 2019**.

**(Ravindra Kumar Verma)**  
**Technical Member**

*mk/mkj*

**(Justice Manjula Chellur)**  
**Chairperson**