

COURT-I

**IN THE APPELLATE TRIBUNAL FOR ELECTRICITY
(Appellate Jurisdiction)**

**IA NOS. 1467 & 1471 OF 2019 IN
DFR NO. 2239 OF 2019**

Dated : 2nd September, 2019

**Present: Hon'ble Mrs. Justice Manjula Chellur, Chairperson
Hon'ble Mr. S. D. Dubey, Technical Member**

In the matter of:

**Ponni Sugars (Erode) Limited ... Appellant(s)
Versus
Tamil Nadu Electricity Regulatory Commission & Anr.
... Respondent(s)**

Counsel for the Appellant(s) : Mr. Anand K. Ganesan
Ms. Swapna Seshadri

Counsel for the Respondent(s) : Mr. S. Vallinayagam

ORDER

(PER HON'BLE MRS. JUSTICE MANJULA CHELLUR, CHAIRPERSON)

IA No. 1467 of 2019 is filed for condonation of delay of 169 days in filing the appeal. IA No. 1471 of 2019 is filed seeking for leave to file appeal by the Appellant against the order dated 04.01.2019 passed in

MP No. 10 of 2018 by the Tamil Nadu Electricity Regulatory Commission.

The Applicant/Appellant has installed a generating station comprising a total capacity of 19 MW. According to the Applicant/Appellant it has paid the demand charges to TANGEDCO as leviable on a periodic basis. At no point of time, it has applied to TANGEDCO seeking parallel operation with the grid, therefore, no question of granting such permission by TANGEDCO to the Applicant/Appellant arises.

However, on 04.01.2019, the Respondent- Commission had passed impugned order levying Parallel Operation Charges (POC) on all captive power plants for the simple reason of being electrically connected to the system of TANGEDCO. The Applicant/Appellant learnt about the impugned order only when it received notice dated 12.06.2019, demanding payment of Rs.2,63,79,677/- from it by Respondent-DISCOM towards POC with effect from May 2014.

Since the time to remit the said amount became effective from May 2014 to May 2019 on the net capacity and the TANGEDCO has included the above amount in the consumption bill of electricity of July 2019, the

Applicant/Appellant had no opportunity to represent itself before the State Commission. The Applicant/Appellant was not heard on that at any point of time before the State Commission. The Applicant/Appellant is aggrieved by the exorbitant levy of POC in terms of the impugned order and Applicant/Appellant has been put to grave financial prejudice.

Though the impugned order was passed on 04.01.2019, the Applicant/Appellant came to know about the said order only on 12.06.2019, therefore, there is sufficient cause for the Applicant/Appellant to approach this Tribunal beyond the period of limitation of 45 days contemplated under Section 111 of the Electricity Act, 2003. Since the Applicant/Appellant was not a party to the proceedings, which resulted in the order dated 04.01.2019, the Applicant/Appellant is seeking permission to file the instant appeal challenging the said order.

In the light of the above explanation, we feel that sufficient cause is made out for allowing both the applications i.e., condonation of delay as well as leave to file appeal. Therefore, delay of 169 days in filing the appeal is condoned and leave to file the instant appeal is granted.

Accordingly the applications are disposed of. Registry is directed to number the appeal and list the matter for admission on **11.09.2019**.

Pronounced in the Open Court on this the 2nd day of September, 2019.

(S.D. Dubey)
Technical Member

(Justice Manjula Chellur)
Chairperson

REPORTABLE / NON-REPORTABLE