

COURT-I

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

**IA NO. 1437 OF 2019 IN
DFR NO. 2193 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:

**Jhajjar KT Transco Private Limited ... Appellant(s)
Versus
Haryana Electricity Regulatory Commission & Anr. ... Respondent(s)**

Counsel for the Appellant(s) : Ms. Poonam Verma
Ms. Aparajita Upadhyay

Counsel for the Respondent(s) : Mr. Raheel Kohli for R-2

ORDER

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

This application is filed for condonation of delay of 52 days in filing the appeal. This appeal is directed against the Order dated 04.04.2019 passed by the Haryana Electricity Regulatory Commission in Petitions No. HERC/RPO-51 of 2018, HERC/RPO-18 of 2019 read with dated 27.05.2019 passed in Review Petition No. HERC/RA-9 of 2019.

Apparently, the main petitions came to be dismissed on 04.04.2019, wherein the Applicant/Appellant had sought a direction against Respondent No.2-Haryana Vidyut Prasaran Nigam Limited not to initiate recovery of amounts from any of invoices as indicated in the notice dated 05.03.2019. Thereafter, review petition came to be filed seeking review of the said order dated 04.04.2019. In the review, the Respondent-Commission modified the impugned order dated 04.04.2019 opining that RMU charges shall be payable at the rate of 1% of the Annual unitary charge. This order came to be received by the Applicant on 11.06.2019.

As contended by the Applicant/Appellant it is well settled that if the review petition is allowed and decree/order passed by a Court or a Tribunal under review is reversed or modified, then such order in review becomes a composite order whereby the Court not only vacates/modifies earlier order but simultaneously passes another order or decree modifying the one made earlier. Therefore, the date of modified/reversed order becomes the effective date for the purpose of calculation of limitation period. In the present case, since the review order dated 27.05.2019 modified the main order and the same was received by Applicant on 11.06.2019, the time to file appeal in terms of Section 111 of the Electricity Act runs from the date of receipt of copy of

the impugned order by the Applicant/Appellant. The Appeal came to be filed on 11.07.2019 i.e., within one month from the date of receipt of copy of the impugned order.

If the limitation period is computed from 04.04.2019 the date on which main petitions were disposed of, then the appeal is filed beyond the period of limitation. But in this appeal the limitation period is computed from the date of receipt of order i.e., 11.06.2019 since the orders in review petition dated 27.05.2019 gets merged with the main order dated 4.04.2019, then the appeal is very much within the time prescribed for filing the appeal.

In view of the above discussion, the delay of 52 days in filing the appeal is condoned. The Application is disposed of.

Registry is directed to number the appeal and list the matter for admission on **15.10.2019**.

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

