

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

**IA NO. 1160 OF 2018 IN**  
**DFR NO. 1658 OF 2018**

**Dated : 1<sup>st</sup> November, 2018**

**Present: Hon'ble Mr. Justice N. K. Patil, Judicial Member**  
**Hon'ble Mr. S.D. Dubey, Technical Member**

**In the matter of:**  
**TANGEDCO**

**....Appellant(s)**

**Versus**

**Central Electricity Regulatory Commission & Ors.**

**....Respondent(s)**

Counsel for the Appellant(s) : Mr. S. Vallinayagam  
Ms. S.Amali

Counsel for the Respondent(s) : Mr. Sitesh Mukherjee  
Mr. Deep Rao for R-2/PGCIL

Mr. Hemant Singh  
Mr. Ambuj Dixit for R-17

**ORDER**

**IA No. 1160 of 2018**

**(For Condonation of Delay in Filing the Appeal)**

We have heard, learned counsel, Mr. S. Vallinayagam, appearing for the appellant and learned counsel, Mr. Deep Rao, appearing for Mr. Sitesh Mukherjee, learned counsel for the second Respondent.

The learned counsel appearing for the appellant, at the outset, submitted that, there is a delay of 117 days in filing the appeal which has been explained satisfactorily in paras 4 to 9 of the application and sufficient cause has been shown therein. The delay in filing the appeal is bonafide and unintentional. The delay has been caused due to the circumstances as explained above. Further, he submitted that, the appellant has a good case on merit and probably he likely to succeed in

the appeal. Hence, the delay may kindly be condoned and IA may kindly be allowed. The matter may kindly be heard on merit in the interest of justice and equity.

*Per-contra*, learned counsel appearing for the second respondent, inter-alia, contended that the delay in filing the appeal has not been properly explained nor sufficient cause has been shown on the ground that in the appeal memo, at page no. 41, there is a signature of one Er. C. Veeramani dated 24.04.2018 and at page 42, there is a signature of Ms. V. Umamageswari dated 27.07.2018. The differences in the dates and the names of the authorized signatory have not been explained and even in the application they have not explained why the delay has been caused during the prescribed period of 45 days. Therefore, he submitted that, there is no bonafide, as such, has been shown nor any satisfactory explanation has been given for condoning the delay in filing the appeal. The reasoning given in para 4 to 9 of the application is not acceptable for condoning the delay of 117 days in filing the appeal. Therefore, the instant application filed by the appellant may kindly be dismissed on the ground of delay and latches.

The learned counsel, Mr. Vallinayagam, in his rejoinder submission to the reply of the learned counsel appearing for the second Respondent, vehemently submitted that, this aspect has been explained to the Registry when the objection has been raised by them and stated that Er. C. Veeramani, who has signed at page 41 dated 24.04.2018 has retired and, thereafter, Ms. V. Umamageswari has signed at page 42 dated 27.07.2018 which has been certified by the Notary, Government of India. Therefore, he submitted that, there is no suppression of fact on the part of the appellant and the delay of 117 has been explained in detail on the ground that the delay has been occurred due to the procedure to be followed for getting the approval from the competent authority to present this appeal. The delay in filing the appeal is bonafide and unintentional. The Appellant, being a Statutory Authority, has been processing the file from one branch to another branch for obtaining

necessary permission from the legal cell whether it is a fit case for filing the appeal or not. Having regard to the consequential repercussion on account of the impugned order which will be putting additional burden to the consumers, and, keeping in view the facts and circumstances, as stated supra, they took a decision to present this appeal. Therefore, he submitted that, the delay of 117 days in filing the appeal may kindly be condoned and the appeal may kindly be heard on merits in the interest of justice and equity.

Submissions made by the learned counsel appearing for the appellant and learned counsel appearing for the second respondent, as stated supra, are placed on record.

After careful consideration of the submissions made by the learned counsel appearing for the appellant and perusal of the reasons assigned in the application, we find that the delay has been explained satisfactorily as sufficient cause has been shown and reasoning assigned is bonafide in nature. We accept the reasoning assigned in the application and delay in filing the appeal is condoned. IA is allowed.

**DFR NO. 1658 OF 2018**

Registry is directed to number the appeal and list the matter for admission on 12.11.2018.

**(S.D. Dubey)**  
**Technical Member**

**(Justice N. K. Patil)**  
**Judicial Member**

vt/pk