

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

IA NO. 195 OF 2018 IN
DFR NO. 223 OF 2018

Dated: 6th March, 2018

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

In the matter of:

Ultratech Cement Ltd.

... Appellant(s)

Vs.

Gujarat Electricity Regulatory Commission & Anr.

... Respondent(s)

Counsel for the Appellant (s) : Mr. R.N. Purohit

Counsel for the Respondent(s) : Ms. Anushree Bardhan
Mr. A.K.Dubey for R-2

ORDER

IA No. 195 of 2018

(Application for Condonation of Delay in filing the appeal)

1. The instant application has been filed by the Appellant for condoning the delay of 87 days in filing the appeal.
2. We have heard the learned counsel, Mr. R.N.Purohit, appearing for the Appellant and the learned counsel, Ms. Anushree Bardhan, appearing for the second Respondent and the learned counsel, appearing for the first Respondent, though served, is unrepresented.
3. The learned counsel, Mr. R.N.Purohit, appearing for the Appellant submitted that there is a delay of 87 days' in filing the Appeal which has been explained satisfactorily and sufficient cause has been made out in the application in paragraphs 4 to 8 may kindly be accepted and delay in filing may kindly be condoned in the interest of justice and equity.

4. *Per-contra*, the learned counsel appearing for the Respondent No. 2 submitted that in the light of the statement made in paragraphs 4 to 8 and submissions made by the learned counsel appearing for the appellant may be placed on record and delay in filing may be condoned by imposing some reasonable costs by way of compensation for condoning the delay in filing the Appeal in the interest of justice and equity.

5. Submissions made by the learned counsel appearing for the Appellant as well as the Respondents, as stated above, are placed on record.

6. In the light of the submissions made by the learned counsel appearing for the appellant and learned counsel appearing for Respondent No. 2 and also after going through the additional affidavit filed on 28.02.2018 by the appellant for explaining the delay in filing the appeal in paragraphs 4 to 8 has been explained satisfactory, thus read as:-

4. Matter being very complex in nature involving points of acts and points of Law, Ld. GERC issued the impugned order on 14th September, 2017, after deliberating on averments made by both the parties during hearings held on 16.02.2016, 05.04.2016, 07.05.2016 and final hearing on 26.07.2016 i.e. after more than an year after final hearing.
5. After receipt of the impugned order on 14th September, 2017, it required time to carry out detailed study and analysis of the Ration Decidendi in view of the complex nature of the issues involved.
6. The Appellant which has its plant in Kovaya, a very remote location in Gujarat, had to refer the matter to its Corporate Office located at Mumbai, Maharashtra for instructions in the matter.
7. There were intervening holidays due to onset of festive season like Durga Puja between 21st September to 30th September, Diwali festival between 15th October to 21st October, resulting in acute shortage of personnel capable to analyzing the same.
8. During the above period, our Technical Consultants, Legal Advisers and Advocates were on leave or were pre-occupied leading to delay.

After carefully gone through the statement made in paragraphs 4 to 8 by the learned counsel appearing for the appellant, the delay in filing the appeal has been explained satisfactorily. The sufficient cause has been made out. The same was accepted by imposing some reasonable costs by way of compensation a sum of Rs. 25,000/- in the interest of justice and equity.

7. Having regard to the facts and circumstances of the case above, the instant application, being IA No. 195 of 2018 is allowed and the delay in filing is condoned subject to payment of Rs. 25,000/- (Rupees Twenty Five Thousand only) to the **National Defence Fund, PAN No. AAAGN0009F, Collection A/c No. 11084239799 with State Bank of India, Institutional Division, 4th Floor, Parliament Street, New Delhi** within a period of four weeks from today. If the order dated 06.03.2018 is not complied with, the appeal filed by the appellant stands dismissed without further orders.

DFR NO. 223 OF 2017

Registry is directed to number the Appeal and post this matter for admission on **09.04.2018** after compliance.

(S.D. Dubey)
Technical Member
kt/js

(Justice N.K. Patil)
Judicial Member