

COURT - I

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

**IA NOS. 300 & 301 OF 2017 IN
DFR NO. 906 OF 2017**

Dated: 31st May, 2017

**Present: Hon'ble Mrs. Justice Ranjana P. Desai, Chairperson
Hon'ble Mr. I.J. Kapoor, Technical Member**

In the matter of :

Independent Power Producers Association of India ...Appellant(s)

Vs.

Maharashtra Electricity Regulatory Commission &Anr. ...Respondent(s)

Counsel for the Appellant(s) : Mr. S. Ganesh, Sr. Adv.
Mr. Hemant Singh
Mr. Matrugupta Mishra

Counsel for the Respondent(s) : Mr. Buddy A.Ranganadhan for R.1

Mr. Sanjay Jain, ASJ with
Ms. Rhea Verma
Ms. Nikita Choukse
Ms. Rimali Batra for R.2

ORDER

(IA Nos.300 of 2017)
(Appl for Leave to file the appeal)

In this application, the applicant/appellant has prayed that leave to appeal may be granted to it.

On this application, notice was issued and all the respondents have been served.

We have heard learned counsel for the appellant. For the reasons stated in the application, without expressing any opinion on the merits of the case, we grant leave to appeal. Application is disposed of.

Needless to say that Stay Application will be decided independent of the fact that leave to file the appeal has been granted to the Appellant.

(IA No.301 of 2017)
(Appls for condonation of delay)

There is 88 days' delay in filing this appeal. In this application, the applicant/appellant has prayed that delay in filing the appeal may be condoned.

On this application, notice was issued and all the respondents have been served.

We have heard learned counsel for the applicant and perused the explanation offered in the application. It is stated in the application that the applicant became aware of the impugned order dated 03.11.2016 in case no.48 of 2016, determining the applicable Cross Subsidy Surcharge and Additional Surcharge applicable on the open access consumers within the State, when certain members of the Appellant such as Hindalco Industries Limited along with a few others, complained about the arbitrary nature of the Impugned order. The members of the Appellant informed the said Appellant that the sharp increase in the CSS and AS is arbitrary and against the mandate of the Electricity Act. Thereafter, the applicant hired third party expert consultants in order to analyse the implication of the order of the Respondent Commission. The entire process took around two and a half month's time. It is only thereafter that the applicants filed the present appeal.

Having regard to the fact that the applicant is an association of independent power producers, and in the circumstances of the case, we deem it appropriate to condone the delay. We find the reason given for

condonation of delay to be acceptable. Sufficient cause is made out. Hence delay in filing the appeal is condoned. Application is disposed of.

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Registry is directed to number the appeal.

Admit. Issue notice on the appeal as well as on the application for stay, to the respondents returnable on 25.07.2017. Dasti, in addition, is permitted.

Learned counsel for Respondents seek four weeks time to file reply. They may file the same on or before 30.06.2017 after serving copy on the other side. Thereafter, rejoinder may be filed on or before 14.07.2017 after serving copy on the other side. .

List the IA for hearing on **25.07.2017.**

(I. J. Kapoor)
Technical Member

(Justice Ranjana P. Desai)
Chairperson

pr/kt